

May 3, 2005

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May 3, 2005

LB 38

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Good morning. Welcome to the George W. Norris Legislative Chamber. Our chaplain this morning is Father Michael Sears, St. Frances of Rome, Azusa, California; Senator Connealy's district. Father.

FATHER SEARS: (Prayer offered.)

SENATOR CUDABACK: Thank you, Father, for being with us this morning. Appreciate it. Senator Connealy represents the 16th District. I call the seventy-first day of the Ninety-Ninth Legislature, First Session, to order. Senators, please record your presence. Record please, Mr. Clerk.

ASSISTANT CLERK: There's a quorum present, Mr. President. (Gavel)

SENATOR CUDABACK: Are there any corrections for the Journal, Mr. Clerk?

ASSISTANT CLERK: Mr. President, one item. (Read correction, Legislative Journal page 1341.)

SENATOR CUDABACK: Are there any messages, reports, or announcements?

ASSISTANT CLERK: One item, Mr. President. A communication relating to a bond issue that will be inserted in the Journal. That's all I have. (Legislative Journal pages 1341-1343.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Before we get started on Final Reading, members, you can take your seats. As you know, that's the requirement. While you're doing that, I'll make some announcements here. (Visitors introduced.) The first item on the agenda is the Final Reading. Members, please take your seats. Pursuant to Rule 6, Section 8, the first vote will be to suspend the at-large reading. All in favor of suspending at-large reading on LB 38E vote aye; opposed, nay. Record please, Mr. Clerk.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 38, 382

ASSISTANT CLERK: 39 ayes, 1 nay to dispense with the at-large reading, Mr. President.

SENATOR CUDABACK: The motion was successful. The at-large reading is dispensed with. Mr. Clerk, LB 38E. Read the title, please.

ASSISTANT CLERK: (Read title of LB 38.)

SENATOR CUDABACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 38E pass with the emergency clause attached? All in favor vote aye; those opposed, nay. Record please, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1343-1344.) The vote is 31 ayes, 14 nays, 1 present and not voting, 3 excused and not voting.

SENATOR CUDABACK: Having failed to receive a constitutional majority, the bill does not pass with the emergency clause attached. The question before the body is, shall LB 38E pass without the emergency clause attached? All in favor without the emergency clause attached vote aye; those opposed, nay. Record please, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1344.) The vote is 30 ayes, 15 nays, 2 present and not voting, 2 excused and not voting, Mr. President.

SENATOR CUDABACK: LB 38E passes with the emergency clause stricken. Mr. Clerk, LB 382E. The first vote will be to suspend the at-large reading. All in favor vote aye; opposed, nay. Record please, Mr. Clerk.

ASSISTANT CLERK: 42 ayes, 2 nays on the motion to dispense with reading, Mr. President.

SENATOR CUDABACK: The motion is successful. At-large reading will be dispensed with. Mr. Clerk, please read the title of LB 382E.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 82, 382, 551

ASSISTANT CLERK: (Read title of LB 382E.)

SENATOR CUDABACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 382E pass with the emergency clause attached? All in favor vote aye; those opposed vote nay. Record please, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1345.) 47 ayes, 0 nays, 2 excused and not voting, Mr. President.

SENATOR CUDABACK: LB 382E passes with the emergency clause attached. Mr. Clerk, LB 551E.

ASSISTANT CLERK: (Read LB 551E on Final Reading.)

SENATOR CUDABACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 551E pass with the emergency clause attached? All in favor vote aye; all those opposed vote nay. Have you all voted who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1346.) The vote is 47 ayes, 0 nays, 2 excused and not voting, Mr. President.

SENATOR CUDABACK: LB 551E passes with the emergency clause attached. We now go to Final Reading in the next stage, motions to return to Select File for a specific amendment. Mr. Clerk, LB 82.

ASSISTANT CLERK: Mr. President, with respect to LB 82, Senator Mines would move to return the bill to Select File for a specific amendment. That amendment is AM1246. (Legislative Journal page 1236.)

SENATOR CUDABACK: Senator Mines, you're recognized to open.

SENATOR MINES: Thank you, Mr. President, colleagues. I'd first like to give my appreciation to Senator Janssen for submitting to the return to Select. This amendment, AM1246, the reason

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 82

it's being proposed is that the Uniform Commercial Code, Section 9-317(e) and 9-324(a) were recently passed by Section 1222 of the bill passed by Congress, in Congress S256. And very simply, it extends from 20 days to 30 days the applicable period within which perfection of a purchase money security interest and property of a debtor may occur. The current provisions of the UCC are amended by...would be amended by AM1246 and provide that a purchase money security interest may be perfected within 30 days, rather than 20 days. The applicable provisions of the UCC give secured creditors a grace period within which to perfect that money, purchase money security interest, following the time that a debtor takes possession of property securing a loan. And UCC Section 9-324(a) applies to all types of goods, except inventory and farm product livestock. The purchase money security interest takes priority if it's perfected by the debtor, and receives possession of collateral within 20 days thereafter. The provisions of the Congressional S256 have given rise to the need that we need to harmonize the provisions of our UCC, because they take effect on October 17 of 2005, and obviously, we will not be in session to make that correction. So, Mr. President and members, I would ask passage...or return to...I would urge passage of AM1246. Thank you.

SENATOR CUDABACK: We are open on a motion to return. Open for discussion. Senator Mines, there are no lights on. He waives closing. The question before the body is, shall LB 82 be returned to Select File for a specific amendment? All in favor vote aye; opposed, nay. The motion before the body is a motion to return to Select File for a specific amendment. Have you all voted who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: 33 ayes, 0 nays on the motion to return the bill, Mr. President.

SENATOR CUDABACK: The motion is successful. The bill has been returned. Mr. Clerk.

ASSISTANT CLERK: Mr. President, Senators Mines, Baker, and Janssen would offer AM1246.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 82

SENATOR CUDABACK: Senator Mines, you're recognized to open on AM1246 to LB 82.

SENATOR MINES: Mr. President, members, again, this simply harmonizes the provisions of the Nebraska Universal..Universal Commercial Code...Uniform Commercial Code, and those of the federal government, and I would ask for your passage of AM1246. Thank you.

SENATOR CUDABACK: You've heard the opening on AM1246. Open for discussion. Seeing no lights on, Senator Mines...I'm sorry. There are some lights on. Senator Bourne.

SENATOR BOURNE: Thank you, Mr. President, members. Would Senator Mines yield to a quick question?

SENATOR CUDABACK: Senator...

SENATOR MINES: More than happy to, Mr. President.

SENATOR BOURNE: Senator Mines, what bill was this that...what bill number...was this a bill that was introduced?

SENATOR MINES: The federal bill?

SENATOR BOURNE: No, the state bill that changed it from 30 to 20 days.

SENATOR MINES: This amendment will change the UCC from 20 to 30 days.

SENATOR BOURNE: So it's saying that, right now, somebody has to file a financing statement within 20 days, and what is the financing statement regarding?

SENATOR MINES: Well, it's...it...the financing statement, or the perfection of security interests would transfer the ownership of, let's say, an automobile, from--the manufacturer may hold title, and the dealer may sell the vehicle. And from the time that title gets to the customer, there's an amount of time. And frequently, because we're dealing in a national

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 82

economy, that amount of time of 20 days today is sometimes insufficient. So at the federal level they've recognized that, and have extended from 20 to 30 days, and this amendment would simply conform with that.

SENATOR BOURNE: Who...Senator Mines, who does the additional 10 days benefit? Are we talking about the financing institution has an additional 10 days to file, to give them priority, or...

SENATOR MINES: Yes.

SENATOR BOURNE: ...is it the debtor? So it would give...it gives the lender of the money an extra 10 days to file, in order to maintain priority?

SENATOR MINES: That's correct.

SENATOR BOURNE: Okay, thank you, Senator Mines.

SENATOR CUDABACK: Thank you, Senator Bourne. Further discussion? Senator Stuthman.

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I would also like to engage in a little conversation with Senator Mines, if I could, please.

SENATOR CUDABACK: Senator Mines, would you yield?

SENATOR MINES: Yes, Mr. President.

SENATOR STUTHMAN: Senator Mines, with this changing it to 30 days, how is that going to affect the time frame of when an automobile needs to be licensed? Will that have any effect, from the 20 to 30 days, the 20 working days? And, you know, you need to get your vehicle licensed, you know, within 30 days after purchase.

SENATOR MINES: No, it doesn't affect anything at the local level. This is merely the agreement between the lender and the holder of the note.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 82

SENATOR STUTHMAN: But in order...in order to receive the title, the purchaser to receive the title, is this going to make it that the lender that is holding the title doesn't have to make sure that the title is in the hands of the purchaser, so they can get it licensed, you know, within that 30 days? Is that going to have any effect to that?

SENATOR MINES: Oh, I see where you're going with this. The transfer of title would occur at the time that the note is secured, and in this case, since the federal government has extended it to 30 days, the difficulty we have in Nebraska would be, do you look at 20 days as our UCC now says, or do you look at 30 days, which is federal law, or will be federal law on October 17? In practice, no one wants to delay this any longer than they have to, but from a titling standpoint, or a licensing standpoint, you do have to have that title. So my guess is, right now we've got some transactions that don't conform to 20 days anyway. This is just merely going along with what federal law is saying, and it's going to 30 days. I hope it doesn't delay anything, from the consumer end.

SENATOR STUTHMAN: That's a concern that I have, Senator Mines, is, you know, are we going to change something that is going to create a burden on the people trying and wanting to title their vehicle within that 30-day time frame? Is that going to have any change in effect to there? You know, what the federal has, as far as their regs, you know, realistically doesn't apply to the local level, as far as the local titling, the purchaser, and the lienholder, and when the lienholder has to make sure that the title is clear, and the individual receives that title, because he can't transfer the vehicle over until he has the clear title. That's the concern that I have, but Senator Mines, you feel that there's not going to be a major problem? I don't...I hate to say that, you know, when...if we pass this bill and we get down the road and people say, well, you know, they don't have to give you the title for 30 days and it's 35 days before you get it in your mail. Are we going to have any of that problem? Do you foresee that, Senator Mines?

SENATOR MINES: I don't, Senator Stuthman. I...this is...this has to do with the security of the instrument, rather than a

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 82, 161

delay of 10 days to enact the transfer of title. It's in the interest of the lender to get...to make sure that that happens as soon as they can. It's not in the interest of the lender to extend the amount of time. What they're saying is, because it's a paper society and that business--it sometimes takes longer than 20 days. Federal would supersede--federal regulations do supersede, and this is merely conforming with that federal law.

SENATOR STUTHMAN: Okay, thank you, Senator Mines. I'm not totally clear on this yet, but I will give the balance of my time back to the Chair. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuthman. Further discussion on AM1246? Seeing no lights on, Senator Mines...he waives closing. The question before the body is, shall AM1246 to LB 82 be adopted? All in favor vote aye; opposed, nay. The question before the body is adoption of AM1246, offered by Senator Mines, to LB 82. Have you all voted on the question who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: 33 ayes, 1 nay on the adoption of the amendment, Mr. President.

SENATOR CUDABACK: The motion was successful. The amendment has been adopted. Senator Flood. Senator Mines, would you like to make a motion?

SENATOR MINES: Flood is sitting there, he can do it.

SENATOR CUDABACK: Senator Flood.

SENATOR FLOOD: Mr. President, I move the advancement of LB 82 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 82 to E & R for engrossing. All in favor say aye. Opposed, nay. It is readvanced. Mr. Clerk, LB 161.

ASSISTANT CLERK: Mr. President, the first motion to return on LB 161, offered by Senator Foley. Senator, this is AM1253.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 161

SENATOR CUDABACK: Senator Foley, to open on the motion to return.

SENATOR FOLEY: Yeah, that...that first amendment I'd like to withdraw, please.

SENATOR CUDABACK: It is withdrawn.

ASSISTANT CLERK: In that case, Senator Foley would move to return the bill for AM1343. (Legislative Journal page 1347.)

SENATOR FOLEY: Yes, thank you very much.

SENATOR CUDABACK: You are recognized to open.

SENATOR FOLEY: Thank you, Mr. President, members. Good morning. The...LB 161 is one of those bills where we're grateful for three rounds of debate. As you know, when this bill made its way along through our processes, Senator Price offered an amendment that would have given the city of Lincoln authority to establish tree districts, and initially, I was very supportive of that concept. As I thought about it more deeply and considered it more thoroughly, I started to go a little bit more lukewarm toward the idea. I still have some lingering concerns on...on what the city is trying to accomplish here, but I do want to express my appreciation to Senator Price and Senator Beutler for working with me on an amendment that I think takes care of some of the core concerns. Under the bill as it's currently structured, the city of Lincoln has the authority to create special assessment districts for trees. And it would require the adoption of an ordinance before any district could be created, and it would set out how the district would be formed, and how the benefits would be measured, and how the costs would be assessed. And then the property owners who are affected by the new districts would have the ability to petition either for the formation of the district, or against the formation of that district. And when they cast their votes, under the bill as it's currently written, their vote would be measured or valued, so to speak, on the basis of front footage. And if you start looking at some neighborhood maps, it doesn't take long before you start to realize that there are some

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 161

parcels of property, quite a number of parcels of property, that have substantial front footage, but have very little value. And it seemed to me peculiar that we would allow the property owners of land that has virtually no value to have so much leverage in that kind of a voting arrangement. So anyway, we've worked through this issue and we now have AM1343, which provides that the city would be required to send written notification to the property owners, with a statement of the benefits that they could expect to receive from the new district, and an estimate of the costs that they would have to assume, if the district went forward. And then their votes would be valued based on the cost that they would have to incur, if the district were formed. So I think the amendment is a substantial improvement to the bill, and again, I want to express my appreciation to Senators Beutler and Price for working with me on this, and to Bill Stadtwald, legal counsel to the Urban Affairs Committee. And with that, I'd ask you to return the bill to Select, so that we could take up that amendment. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Foley. You've heard the motion...opening or a motion to return. Open for discussion. Senator Foley, there are no lights on. You are recognized to close on your motion to return. He waives closing. The question before the body is, shall LB 161 be returned for a specific amendment? All in favor vote aye; opposed, nay. The question before the body is, shall LB 161 be returned for a specific amendment? Record please, Mr. Clerk.

ASSISTANT CLERK: 33 ayes, 0 nays on the motion to return the bill, Mr. President.

SENATOR CUDABACK: The motion was successful. Mr. Clerk, read the amendment, please.

ASSISTANT CLERK: Senator Foley would offer AM1343.

SENATOR CUDABACK: Senator Foley, to open on AM1343.

SENATOR FOLEY: Thank you, again, Mr. President. Again, this is the amendment that we've worked up with the city of Lincoln, and Senators Price and Beutler, and I'd ask for your favorable

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 161, 211

consideration of the amendment. Thank you.

SENATOR CUDABACK: You've heard the opening on AM1343. Open for discussion. Seeing no lights on, Senator Foley...he waives closing. The question before the body is, shall AM1343 be adopted to LB 161? All in favor vote aye; opposed, nay. Record please, Mr. Clerk.

ASSISTANT CLERK: 39 ayes, 0 nays on the adoption of the amendment, Mr. President.

SENATOR CUDABACK: The amendment has been adopted. Senator Flood, for a motion, please.

SENATOR FLOOD: Mr. President, I move the advancement of LB 161 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 161 to E & R for engrossing. All in favor of the motion say aye. Opposed to the motion say nay. LB 161 is advanced. Mr. Clerk, LB 211.

ASSISTANT CLERK: Mr. President, LB 211, the first motion to return I have relates to AM1327, but I have a note from Senator Landis that he wishes to withdraw that.

SENATOR CUDABACK: Is that true, Senator Landis?

SENATOR LANDIS: I'm...that's what I'm looking to substitute for AM1373, Mr. Clerk? Does that sound right?

ASSISTANT CLERK: Yes, that's the next amendment I have from you.

SENATOR CUDABACK: Seeing no objection...

SENATOR LANDIS: Thank you. Then I wish to withdraw that, so that the subject is AM1373.

SENATOR CUDABACK: You're recognized to open on your motion to return.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 167, 211

ASSISTANT CLERK: Mr. President, Senator Landis would move to return the bill for AM1373. (Legislative Journal pages 1348-1351.)

SENATOR CUDABACK: Senator Landis.

SENATOR LANDIS: Thank you, Senator Cudaback, members of the Legislature. Essentially, I'm asking for LB 167, a bill heard and reported out by the General...the Government, Military and Veterans Affairs on unanimous vote essentially be adopted to LB 211 which is a cemetery bill offered by Senator Janssen. If this proves controversial, I will withdraw it, but I don't think it is. In fact, there is no source of controversy that I know of about the bill, in that the bill itself before the committee had only proponents, and since then we've continued to work with all parties. It does not have a cost. There is no A bill. It does not require the expenditure of money. What the bill does, however, is to designate somebody inside the State Historical Society as our state archeologist. It also requires that public lands, not private lands, but that public lands, who discover an archeological resource apprise the State Historical Society's archeologist, the Office of State Archeology, of that resource so that it can be evaluated and maximized. There are some "Mother, may I's." There are some passes from the office. The Department of Roads gets a pass from the office. It doesn't apply to them. There's also several entities, for example like NPPD, which have federal obligations that are essentially quite similar to what we would otherwise do at the state level. And if they can provide a letter of understanding to the State Archeology Office, they will get a pass, as well. However, this applies to public lands and public agencies, and what it says is that when they're building or whatever and they come across an archeological resource, something at least 50 years of age or older which has historical merit or value, that they will pause for an evaluation or for to continue, if that's the case, and for that resource to be able to be maximized by the state, if at all possible. It does say that to destroy, excavate or plunder a public resource like this is a Class III misdemeanor, which is essentially the same thing as trespass. You would have to be trespassing on public land to do this. You would have to be

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 211

stealing a public resource if that was to apply anyway. And the guts of the bill is essentially a laundry list of functions which could be played by the State Archeology Office but all of those do say "may" and they include: promoting and developing archeological resources, supporting avocational interest in archeological resources, conducting programs of locating, identifying and quantifying the significance of our resources, our archeological resources, maintain a master archeological site file, advise state agencies, serve as the liaison office in transactions dealing with the exchange of archeological resources. It certainly authorizes the Archeology Office to go out and get grants because it is not expected that this have an A bill. What the State Historical Society needs to do is to redeploy its existing resources or go to its foundation or to the populace for additional support other than General Funds. That's why there's no A bill on this. Again, the bill is...the functions and duties of the Archeology Office are put in "may" rather than "shall" so that they can take on those functions that they can pay for, if you will, those things that they can undertake that they'll have authority to do and that they have the resources to do. The essential clarity of the bill is in Section 5: Except as provided in subsection (2) of this section, the head of any state agency having jurisdiction over a proposed state or state-funded undertaking which has potential to affect archeological resources or sites, shall, prior to the approval of the expenditure of any state funds on the undertaking, notify the State Archeology Office of the undertaking and cooperate with the office to identify and develop measures to mitigate the effect of the undertaking on any archeological site or resource that is included in or eligible for inclusion in the National Registry of Historic Places. This will not hamper private property. This is for public assets, state-owned assets, so that we do not destroy our own historical records in the desire to pave the world. Now, understand that there are Cash Funds available. They could take grant monies. They're authorized to go out and get monies. They're also authorized to accept donations so that there are Cash Funds but no General Funds. I think that's a fair description of the amendment that I'm offering. I would answer any questions and respond to your concerns.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 211

SENATOR CUDABACK: Thank you, Senator Landis. You've heard the opening on (inaudible) Senator Landis to return LB 211 for a specific amendment. Open for discussion on that motion. Senator Chambers, followed by Senators Schimek and Loudon. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, before I get mean later on perhaps, I have to discharge something that I agreed to do. There's a lady who works for the Historical Society. When this bill was before us before or a similar one, I had started by giving the first stanza of a national anthem for the morticians that I was writing, and I only had that one verse, and I wasn't sure whether I would complete it, but she took me quite seriously and said that since the Historical Society would be administering this bill, she wanted, and they wanted, a copy of that anthem. Well, at that time it wasn't completed. Thinking that the bill would never come before us again, I did complete it, but I didn't know I'd have to give a rendition, but that is something that I am obliged to do. Senator Landis must have known it because before he finished, he said, hmm, as though he's giving me the pitch. And this...I don't know if I have enough time to do it. How much time do I have, Mr. President?

SENATOR CUDABACK: About one minute has elapsed.

SENATOR CHAMBERS: One, so I...okay. "Morticians National Anthem," by Ernie Chambers, performed for the first time before the Nebraska Legislature on May 3, 2005, by the lyricist. Foreword: I was given a Commission / By a Mortician / To write a National Anthem / For those who do "plant them" / sung more or less to the tune of "These are a Few of my Favorite Things." I'm not going to try to sing it all, but if I did, it would start: Corpses, condolences, flowers, a coffin, / Black-curtained hearse that they carry you off in; / Tombstones and epitaphs with verbal slings, ? These are a few of our favorite things. / Churches and eulogies, pallbearers, mourners, / Weeping and wailing in all the church corners; / Choirs droning dirges that make grown men cry-- / These are the things that take place when folks die. / Fine embalming keeps the corpse fresh, / Add some makeup, too; / Then a good service

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 211

lends just the right touch, / And all of this waits . . . for you! / Graves freshly dug, with stone vaults placed inside them; / Caskets are placed in those vaults that do hide them. / Florists, morticians, gravediggers and such-- / These are your servants who thank you so much! / Row-upon-row rest the graveyard's residents. / Some day, all out here will all be insiders. / Here is a truth which each person does know: / We all shall help make that populace grow. / When the last dirt tops the casket, / And the grave is filled, / We shall not gather again in this way, / Until someone else . . . is chilled! (Laughter)

SENATOR CUDABACK: Are you through, finished, Senator Chambers? (Visitors introduced.) Senator Schimek, followed by Senator Louden, on the motion to return.

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. I stand in favor of the motion to return to Select File. I have to tell you that this bill has been before the Government Committee umpteen times. I've lost count, and every year it comes back in a different form. I think one of the early objections to the bill was the cost of the bill, and so through a number of different bills, we've gradually weeded out the cost of it. And I have to tell you that the Government Committee did advance this on a 7-0 vote with one person absent, so we worked on the bill. We amended the bill and we sent it out. Now, Senator Landis, I have to apologize to you because I just became aware this morning that the amendment you are doing has a few little changes from the committee amendment. So when we get this returned to Select File, which I hope that we will, maybe you and I can talk about that for just a moment. But in the meantime, this bill is long overdue. We really do need it, and I'm 100 percent behind returning this to Select File. Thank you.

SENATOR CUDABACK: Thank you, Senator Schimek. Senator Louden, on the motion to return.

SENATOR LOUDEN: Yes, thank you, Mr. President, members of the body. I would like to ask Senator Landis a question, if I may.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 211

SENATOR CUDABACK: Senator Landis, would you reply to a question of Senator Louden?

SENATOR LANDIS: Senator Louden.

SENATOR LOUDEN: Yes, Senator Landis. As you have in there I understand the bill to be state properties. It's land owned by the states and stuff. How does this affect some of our school lands under the Bureau of Educational Lands and Funds? If perhaps someone is out there repairing a fence or something like that and runs across some buffalo bones and that sort of thing, do they have to immediately stop and then go get a state archeologist or someone to ascertain what the findings are, and that sort of thing? And is...will that affect what goes on on our Board of Educational Lands and Funds land?

SENATOR LANDIS: Let me see if I can identify the answer to that question, LeRoy, because it's...I read what I think is the most important area which is a proposed state or state-funded undertaking, the head of any state agency having jurisdiction over a proposed state or state-funded undertaking--that doesn't sound like that's in this situation--which has potential to affect archeological resources or sites shall, prior to the approval of the expenditure of any state funds on the undertaking--doesn't sound like that applies in this situation--notify the State Archeology Office of the undertaking and cooperate with the office to identify and develop measures to mitigate the effect of the undertaking on any archeological site or resources that is included or eligible for inclusion in the National Registry of Historic Places.

SENATOR LOUDEN: Then you, when you talk about some of the places have passes, then the Board of Educational Lands and Funds would have a pass on this? Is that...

SENATOR LANDIS: For that purpose, it would be if they had a letter of understanding with the Historical Society sufficient to say that whatever obligations they have under federal law would essentially equate what's being done on the state law. My guess is the answer is no. However, where I think the problem...where I think the situation is is the actions that are

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 211

undertaken, as you describe them, would not fall under the kinds of actions which are obligated here. Number one there's a state undertaking, which doesn't look like there is, for which there's an expenditure of state funds, for which there doesn't sound like there is. In other words, I think they fall outside the definition of what's covered in this bill. There is no pass, however, for the State Board of Lands and Funds.

SENATOR LOUDEN: Okay. My concern was is that people that lease these school lands is they're going about their proper maintenance of property on that land, that if they run across some types of archeology, buffalo bones or whatever you may have, would, as long as they don't have to drop everything and hold the whole course of their maintenance up, then I guess I can...I'm satisfied with the amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Louden. Further discussion on the motion to return LB 211? Seeing no lights on, Senator Landis, you're recognized to close, if you care to.

SENATOR LANDIS: Thank you, Mr. Speaker, members of the Legislature. I was...I heard Senator Chambers saying that before he got mean, he'd sing us that song. I'm not so sure it was before he got mean but I was concerned in fact whether, you know, this was in fact controversial. I think Senator Chambers would agree with me that this is a good idea. I had a private conversation with him. I'm glad to have us together on the same side of an issue. That's good news. I would ask for the adoption...for the return of LB 211 for this amendment to Senator Janssen's bill with respect to the status of cemeteries around the state and this being the...the amendment being the State Archeology Office. Thank you.

SENATOR CUDABACK: Thank you, Senator Landis. You've heard the closing. The question before the body is, shall LB 211 be returned to Select File for a specific amendment? All in favor vote aye; those opposed, nay. The question before the body is, shall LB 211 be returned to Select File? Record please, Mr. Clerk.

ASSISTANT CLERK: 35 ayes, 0 nays on the motion to return,

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Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 211

Mr. President.

SENATOR CUDABACK: The motion was successful. LB 211 has been returned. Mr. Clerk, read the amendment, please.

ASSISTANT CLERK: Mr. President, Senator Landis would offer AM1373.

SENATOR CUDABACK: Senator Landis, you're recognized to open on AM1373 to LB 211.

SENATOR LANDIS: Senator Cudaback, there used to be a reporter who used to cover the Nebraska Legislature, Tom Fogerty. He used to take attention to the use of the language on the floor, particularly misuses of language, although he also would do a summarizing column at the end of the year. Senator Jensen just came over and whispered in my ear, "Does this have anything to do with digging up dirt on legislators?" Which I thought was pretty good and probably would have made it into the Tom Fogerty final column if Tom Fogerty was here. Or as Senator Stuhr said to me, "So does this mean that you and Senator Chambers are singing the same tune?" Oh-h-h. I'm glad to be the object and target of the wit and witticisms of my colleagues this morning, however, we will be making a step and an advance here in preserving our historical record where public lands and public undertakings are concerned. Hopefully, we will be able to add to the archeological record that we have and the history that we have. Right now, tourism is the third largest industry in this state, or as Senator Brashear likes to call it, traffic, because what he says is the reason that we have so much tourism is only because people are stopping here overnight on their way to someplace else. The day in which we will be...get those people to stay an extra day or two days or three days is the day in which we will be able to flesh out completely, visually and beautifully the archeological and historical record of this state. So as a little precursor to that, I'd ask for the adoption of AM1373.

SENATOR CUDABACK: Thank you, Senator Landis. You've heard the opening on AM1373 offered by Senator Landis. Open for discussion. Senator Schimek.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 211

SENATOR SCHIMEK: Yes, thank you. Mr. President and members, I would like to have a little bit of discussion with Senator Landis, just so it's clear to me and to the Government Committee, maybe what the significance of the changes were in the amendment that Senator Landis has presented us, as opposed to the original Government Committee amendment. And, Senator Landis, I had been briefed on this a little bit, so I'm thinking that maybe we could just either talk about this in generalities or we could talk about the specific sections that may have been changed.

SENATOR CUDABACK: Senator Landis.

SENATOR LANDIS: Section 2, subsection (3).

SENATOR SCHIMEK: Right.

SENATOR LANDIS: The rights of private property owners must be maintained, even with their private...even when their property contains archeological sites or resources. This was a concern, particularly about graves and small individually, privately owned, like, family resources or whatever. So that's new.

SENATOR SCHIMEK: That's added to the green copy. Yes.

SENATOR LANDIS: That's right.

SENATOR SCHIMEK: Okay. Next, I think is subsection (3).

SENATOR LANDIS: In the bill, under subsection (3) of Section 4, it originally said: The State Archeology Office "shall"...

SENATOR SCHIMEK: Right.

SENATOR LANDIS: And since there are more obligations than there are resources to match, that was changed to "may."

SENATOR SCHIMEK: Okay. Thank you.

SENATOR LANDIS: So from among that list they could choose to do

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 211

those things which they could afford to do. There is an addition in subsection (o). It would be on page 4 of the amendment: Identify properties included in the National Register of Historic Places that are endangered, and coordinate or facilitate the purchase and maintenance of such properties by other public or private agencies--new language--in order to preserve archeological sites or resources located on the properties. So it added another purpose for which they could go in and buy property.

SENATOR SCHIMEK: And I don't think that...what page was...or what section was that in?

SENATOR LANDIS: Section 4, subsection (o), if you will.

SENATOR SCHIMEK: Okay. Thank you.

SENATOR LANDIS: At the bottom of 5, which would be Section 5, subsection (3). Nothing in the--new language--Nebraska Archaeological Resources Preservation Act shall be construed to abridge the rights of private property. That was done so that we would be referring to these ten sections and not to Senator Janssen's underlying bill.

SENATOR SCHIMEK: I see. Okay.

SENATOR LANDIS: So it's sort of a right-of-way. And then we changed from Class II to Class III the misdemeanor that was involved, making it essentially equivalent to a trespass.

SENATOR SCHIMEK: And then there...I think there was...no, never mind. No. Thank you. I think you've covered everything plus one other thing that I didn't have, so thank you very much for that explanation. I think it's good to let people know how that did change from the bill that did come out from committee. I have no problem with it and would recommend the adoption of AM1373.

SENATOR CUDABACK: Thank you, Senator Schimek. (Doctor of the day introduced.) Further discussion on AM1373? Senator Landis, there are no more lights on. You are recognized to close on

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Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 211, 401, 734

AM1373.

SENATOR LANDIS: I ask for the adoption of AM1373 to LB 211, and I want to thank Senator Janssen for permitting us to use his bill as the potential vehicle for making what I think is a low-cost addition to our vast and untapped cultural heritage. Thank you, Senator Cudaback.

SENATOR CUDABACK: Thank you, Senator Landis. The question before the body is, shall AM1373 be adopted to LB 211? All in favor of the motion vote aye; those opposed to the motion vote nay. The question before the body is the Landis amendment, AM1373, to LB 211. Record please, Mr. Clerk.

ASSISTANT CLERK: 40 ayes, 0 nays on the adoption of the amendment, Mr. President.

SENATOR CUDABACK: The motion was successful. The Landis amendment has been adopted. Senator Flood, for a motion, please.

SENATOR FLOOD: Mr. President, I move the advancement of LB 211 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 211 to E & R for engrossing. All in favor say aye. Opposed, nay. It is advanced. Mr. Clerk, LB 401.

ASSISTANT CLERK: Mr. President, with respect to LB 401, Senator Friend would move to return the bill. (AM1314, Legislative Journal page 1313.)

SENATOR CUDABACK: Senator Friend, you're recognized to open on your motion to return LB 401 for a specific amendment.

SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. This amendment, AM1314, changes the amendment that we adopted...that the body adopted on Select File, which was AM1038, that placed LB 734, as amended by the committee amendment, into LB 401. Now that bill dealt with the problem of voting as a resident in an SID election, when the property was

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Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 401, 734

owned by an estate or family trust, and the bill changed the existing prohibition from extending to all trusts, limiting its application to irrevocable trusts. The committee amendments extended the change to apply to service on the board of trustees as well, and changing the requirements for how trust representatives would appear on the ballot. And that's where the...that's where the problem occurs. The consequence of the change dealing with the service on the board of trustees...the change would essentially have unintended consequence of prohibiting representatives from family trusts from service on boards of trustees of SIDs. And this potential problem came to light after the adoption of the amendment to LB 401, and this was not the intent of the committee, and really not the intent of the bill, the reason it was brought forward. The amendment, AM1314, returns the provision to the original form of LB 734, and it deals only with the right to vote, as an SID resident, and deletes all the provisions dealing with the candidacy for SID board positions, as a representative of a trust. The amendment solves the original problem and guarantees that no one is prohibited from service on an SID board of trustees. With that, I would ask for the return to Select File, and the eventual adoption of AM1314. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Friend. You've heard the opening on a motion to return. Open for discussion on that motion. Senator Schimek.

SENATOR SCHIMEK: Yes, thank you, Mr. President, members. I would...I rise in support of the return to Select File for purposes of the amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Schimek. Further discussion on the motion to return? Seeing no lights on, Senator Friend, you are recognized to close. Senator Friend, did you wish to close? He waives closing. The question before the body is, shall LB 401 be returned to Select File for a specific amendment? All in favor vote aye; those opposed, nay. The question before the body is, shall LB 401 be returned to Select File for a specific amendment? Record please, Mr. Clerk.

ASSISTANT CLERK: 37 ayes, 0 nays on the motion to return,

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Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 401

Mr. President.

SENATOR CUDABACK: The motion was successful. LB 401 has been returned. Mr. Clerk, read the amendment, please.

ASSISTANT CLERK: Mr. President, Senator Friend would offer AM1314.

SENATOR CUDABACK: Senator Friend, to open on AM1314 to LB 401.

SENATOR FRIEND: Thank you, Mr. President, and members of the Legislature. The amendment to LB 401, AM1314, on page 2, line 19, page 3, lines 3, 14, and 27; we're striking new matter. That's the bottom line. With that, I would ask for the adoption of AM1314. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Friend. You've heard the opening on AM1314. Open for discussion. Senator Wehrbein.

SENATOR WEHRBEIN: Yes, Mr. President, members, I'd like to ask Senator Friend a question.

SENATOR CUDABACK: Senator Friend, would...

SENATOR WEHRBEIN: I'd like to be a little clear on this, Senator Friend. Can any...can a trustee of any sort now vote on an SID board, or have a vote? Or as part of an SID? I mean, I don't have that file in front of me.

SENATOR CUDABACK: Senator Friend, would you yield?

SENATOR FRIEND: I'm not sure...Yes, Mr. President. I'm not sure I understand, Senator Wehrbein, what...

SENATOR WEHRBEIN: I don't know what you struck here for sure, but I guess maybe I'd ask you to explain a little bit again, what you did, in terms of the trustee representation of a family being able to vote for an SID election. Is that what we're talking about?

SENATOR FRIEND: Exactly, and the original amendment that we put

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Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 401, 734

on in Select File, which was LB 734, was changing in, I believe, four different spots, for legal purposes, essentially saying that irrevocable trusts, the language had to be in there. The problem is, what we found out through all kinds of different, I would say, different channels, is that that created a legal problem when a, if I'm not mistaken, when a member of a family...when the person didn't live...when a person whose name was on the original trust, and the member of the family lives in that SID, my understanding is that that person could be a representative on the board. If we had that language in there, that would no longer be the case. But that would create a legal problem for that person representing that SID on that board. And that was not the intent. That's not what we wanted to do.

SENATOR WEHRBEIN: Is...

SENATOR FRIEND: I can consult with...

SENATOR WEHRBEIN: Well, is LB 734 now completely out, again, or is there parts of LB 734 left? That's my question.

SENATOR FRIEND: The voting parts, except for one...and that's why I read the stricken matter on page 2, line 19, page 3, lines 3, 14, and 27. Those are all the voting...

SENATOR WEHRBEIN: But that is not all of LB 734?

SENATOR FRIEND: No.

SENATOR WEHRBEIN: Some of LB 734 is still maintained?

SENATOR FRIEND: Correct.

SENATOR WEHRBEIN: That's what I was after, okay.

SENATOR FRIEND: That's correct.

SENATOR WEHRBEIN: Thank you.

SENATOR CUDABACK: Any further discussion on AM1314? Senator Friend, there are no lights on. The Chair will recognize you to

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Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 401, 682

close on AM1314. He waives the opportunity to close. The question before the body is, shall AM1314 be adopted to LB 401? All in favor vote aye; those opposed, nay. The question before the body is the Friend amendment, AM1314, to LB 401. Have you all voted who wish to? Record please, Mr. Clerk.

ASSISTANT CLERK: 36 ayes, 0 nays on the adoption of the amendment, Mr. President.

SENATOR CUDABACK: The motion was successful. The Friend amendment has been adopted. Senator Flood, for a motion, please.

SENATOR FLOOD: Mr. President, I move the advancement of LB 401 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 401 to E & R for engrossing. All in favor of the motion say aye. Opposed, nay. LB 401 is readvanced. Mr. Clerk, LB 682.

ASSISTANT CLERK: Mr. President, as it relates to LB 682, Senator Redfield would move to return the bill. (AM1325, Legislative Journal page 1337.)

SENATOR CUDABACK: Senator Redfield, to open on your motion to return LB 682 for a specific amendment.

SENATOR REDFIELD: Thank you, Senator Cudaback, members of the body. When we addressed LB 682 on the floor, much of our discussion dealt with the term of office for the House of Representatives and the bill is, in fact, about a vacancy in our representation in Congress. And I believe that the committee put together a very excellent proposal in how they deal with this vacancy if it occurs after August 1. They would not have a special election but they would, in fact, take the two primary winners, put them on the ballot, or if there is a third party that has enough to qualify in our state elections, there would be a third candidate, but the primary winners would go on the ballot in the general election, and we would also have a petition process where they could get a name on the ballot. The winner of that general election would fill the vacancy of the

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 682

current term, as well as be elected to the coming term. I think that's practical. I think it's an excellent proposal, and I fully support it. There's also a provision in the bill, LB 682, that we've adopted on how to deal with a vacancy that would occur after the general election in November, and we again would take the winner of that race in November and we would call them the winner for the remainder of the term, as well as the upcoming term. It's very, very practical. The concern I had was in the term between the primary that may have been fought in May and the general election, if in fact there is a vacancy in office in Congress, we have already established who the winners of the primary are, but under the terms of the bill, they fall into the category of all other dates where, in fact, they would find their way onto a ballot for a special election, if their party so designated. You assume that it might be the winners of the primary. But then there's a provision for any other person to file, just pay a filing fee, put their name on the ballot, and in fact, then we have a primary fought over again, perhaps during the summer. That seems somewhat inefficient. It seems somewhat impractical, and it seems somewhat unfair to the candidates who have already invested a lot of time and energy and financing into fighting a primary battle. So I was looking at what might serve Nebraska's purposes best. And certainly it's important to us under the federal system where seniority matters as far as committee appointments and any kind of power as far as getting legislation passed, that seniority matters. So it would behoove Nebraska to put in place someone who could maintain that seat for us and continue in that office. Having a free-for-all in a special election where, in fact, you have a low turnout, might not serve our interests best. So what the bill, or the amendment that I'm asking you to return for would do, is create a petition process which would be very similar to what the committee has put in place for a vacancy that occurs after August 1. If you look at other vacancies we have in office, we have had certainly legislative seats here in the State Legislature that have been emptied, and they've occurred after the filing deadline for the election process in election years, and we require those candidates to go out and get signatures and petition to be on the ballot. It is troublesome, but it is not onerous, and I think it's fair. If you cannot find enough people to sign a petition that support your

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 682

candidacy, you have to wonder if they are a viable candidate or whether, in fact, it just might create mischief in the election process. So what I am hoping that you will do is return the bill for the purpose of discussing the amendment. Senator Schimek very graciously said we'll talk about it. She didn't promise she would support it but she said it was a legitimate issue to discuss, and so I am setting it before you trying to endorse what, in fact, the committee has adopted and what we as a state have adopted in other vacancies. I believe consistency is important, and I would support that in any area of law, especially in elections. So I would ask for your vote to return the bill to Select for the purpose of amendment. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Redfield. You've heard the opening on the motion to return. (Visitors introduced.) Open for discussion on the motion to return LB 682. Senator Schimek, followed by Senator Chambers. Senator Schimek.

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. I rise in response to the motion to return. I will support the motion to return. I did have this discussion with Senator Redfield on Select File and I think that she's worked hard on this amendment. She's right. I don't know that I'm going to support it. I don't know that I'm going to oppose it. I think I may just let the body decide what it wants to do on this. I don't think it'll...I don't think it really improves the bill, but I don't think it hurts it, either. It's one of those strange kinds of situations. So I will support the motion to return and let the body decide what it wants to do about the Redfield amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Schimek. On with discussion, Senator Chambers.

SENATOR CHAMBERS: Mr. President, it's time for me to get mean, not on Senator Redfield's amendment, but this is a bill that deals with a political issue, an election or a way to fill a vacancy in the House of Representatives. That is a partisan office. Sometimes the races for it become quite acrimonious. Senator Redfield mentioned the word fairness in connection with

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 682

what she's suggesting. Well, something very unfair happened in the Regents' race. A scoundrel named Hergert stole that election. And when he paid a little fine, all it did was allowed him to overspend even more than was required. There are three options. This man, if he had a shred of morality, a shred of common decency would resign. I have made it clear to the Attorney General that I'm going to talk to him to see about some prosecution on the criminal violations for this man, because the statute specifically gives the Attorney General concurrent authority to prosecute that the commission has, and for those who might be interested, Section 49-14,133. I also have prepared a little packet that I'm going to hand out. One of the articles deals with cheaters: More students seem open to dishonesty. Electronic devices aid students who cheat. Well, where is the place that ethics are taught; where ethics ought to be exemplified; where the leaders ought to, in their personal conduct, show students what being ethical means? The University of Nebraska, the flagship educational institution. And sitting on the Board of Regents is not only the paradigm of cheating but of law violating, and the students can look at him and see that cheating and law violating not only pays off, you win by violating the law and by cheating. Every time the regents have a meeting, there's a law violator sitting among them, setting an example supposedly. These students are condemned and criticized for cheating. If the purpose is to get ahead in life, why don't they look at the one who has demonstrated success, demonstrated it by lying, cheating and violating the law? There is a certain plateau of spending which requires a person who is not going to comply with the statutory limit for expenditures for an office which, when that level is passed, a report has to be made. This Hergert is responsible by his own action for passing that threshold. He knew what he was doing. He had expressed contempt for the laws that he had violated. No criminal case, other than where a defendant confesses, is usually solved by direct evidence, circumstantial evidence. The court has said you determine intent in a criminal case by looking at the surrounding circumstances. Not only do you have the man's own words uttered publicly, notoriously, brazenly, but you have his conduct which put him in a position to violate the law. He knew when he violated the part about the loans that by giving that money to himself, he was above the allowable limit. He cannot

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 682

now say, well, gee, I didn't know. He did know, and he was absolutely and positively wrong. And let me tell you why I've got to go after this rascal. It was my resolution of impeachment that got former Attorney General Paul Douglas, a "Repelican" repeat...impeached. I was the first one to call for the impeachment of Lorelee Byrd, the former treasurer, a "Repelican." I was the one who got "Deacon Jones," I believe a "Repelican," removed...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...from the bench. And I've gone after other judges and gotten them disciplined. Also I went after Senator Mossey after he got involved, based on criminal, alleged criminal conduct, because he would not resign from the Legislature. I was the one who insisted that HHS fire that DeLiberty man who hired the murderer in violation of HHS rules and regulations. This rascal who violated the criminal law, as well as administrative requirements, cannot be given a free pass and he's not going to get it from me. This is the appropriate bill for that issue to be raised, and I am raising it, but I'm not through yet. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Raikes.

SENATOR RAIKES: Thank you, Mr. President and members. Senator Redfield, if I could ask you a question.

SENATOR CUDABACK: Senator Redfield, would you respond?

SENATOR REDFIELD: Certainly.

SENATOR RAIKES: The amendment, as you proposed it, is to have anyone who is not a party designee get votes on a petition. Is that correct?

SENATOR REDFIELD: That is correct.

SENATOR RAIKES: What about having the petition requirement for those appointed from the party as well?

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 682

SENATOR REDFIELD: Senator, the committee put it together that the parties could designate. I didn't touch that portion of it. I'm not opposed to that, but I believe the question might be better addressed to Senator Schimek, who is Chair of the Government Committee, as to why they wanted the parties to designate a candidate.

SENATOR RAIKES: Okay. Thank you, Senator Redfield. And if I could, I'd ask Senator Schimek a question.

SENATOR SCHIMEK: Certainly.

SENATOR CUDABACK: Senator Schimek.

SENATOR RAIKES: Senator Schimek, the question was if...and I understand that the committee did not propose what Senator Redfield is proposing here...

SENATOR SCHIMEK: Right.

SENATOR RAIKES: ...but did propose that a designee of a party be on the ballot without getting signatures on a petition. If we were going to move in the direction that Senator Redfield is proposing, would it be appropriate to say that the...that all the candidates, including those designated by the party, would be subject to the petition requirement?

SENATOR SCHIMEK: Well, Senator, I...that's more or less the way it's done now, frankly, when there are vacancies. The...I can...and we talked about this a little bit in a previous discussion, that in the past this has happened, oh, when the political party itself finds the replacement on the ballot, if it's between the primary and the general. That's just for the ballot itself. That's...

SENATOR RAIKES: So when you say that's the way it's being done now, you mean it's not being done now with petitions. It's being done, that the party leadership just appoints someone.

SENATOR SCHIMEK: If there's a vacancy...let's say that two candidates have gone through the primary election, and for one

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 682

reason or another, one of the candidates has died or dropped out or whatever, then it's up to the political party to appoint somebody to take their place. That's only in the case of candidates. I'm not talking about a vacancy in the office of the House of Representatives. Do you get the distinction?

SENATOR RAIKES: I think so. But you mentioned a winner of a primary. One possibility, would it not, to be to say that if someone had run...won a primary as a...for a particular party, then that person could be designated. But if that isn't the case, then anyone who got on the ballot would need to collect signatures on a petition, whether they're not a party...or other than the party's choice, or if they are the party's choice?

SENATOR SCHIMEK: You're talking about when there is a vacancy in the House, for instance?

SENATOR RAIKES: Yes.

SENATOR SCHIMEK: Is that what you're talking about?

SENATOR RAIKES: Yes.

SENATOR SCHIMEK: And your question is, again, please?

SENATOR RAIKES: Well, again the notion that if you're...

SENATOR CUDABACK: One minute.

SENATOR RAIKES: ...going to require...we've got two...we've got the parties able to choose someone to be on the ballot in the special election without going through the process of collecting signatures on a petition.

SENATOR SCHIMEK: That...yes.

SENATOR RAIKES: Someone who is not a designee of the party would have to collect signatures on a petition.

SENATOR SCHIMEK: Yes.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 682

SENATOR RAIKES: My question or my proposal, I guess, is why not have the designees of the parties also go through the petition process?

SENATOR SCHIMEK: I don't know that I think that's necessary. You're talking about between the primary and the general?

SENATOR RAIKES: Right. Well...

SENATOR SCHIMEK: And you're talking...right?

SENATOR RAIKES: Yes. If, well...

SENATOR SCHIMEK: And you're...

SENATOR RAIKES: Okay, what about if it's before the primary?

SENATOR SCHIMEK: Well, then that's a whole another other ball game, the way the...

SENATOR RAIKES: So this would...this whole proposal would not apply for any vacancy that occurred before the primary?

SENATOR SCHIMEK: The Redfield amendment?

SENATOR RAIKES: Or the bill?

SENATOR SCHIMEK: Oh, no. There's provisions throughout the bill...

SENATOR CUDABACK: Time, Senator.

SENATOR RAIKES: Thank you.

SENATOR CUDABACK: Thank you, Senator Raikes. On with discussion, Senator Chambers, followed by Senator Bourne.

SENATOR CHAMBERS: Thank you, Mr. President and members of the Legislature. Now that everybody has been waiting to exhale, they can exhale. Some people. I've got to continue. This that I'm talking about is a matter of great and important public

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 682

concern. I have a deep interest in education. I have a deep interest in what happens with the University of Nebraska at Lincoln, and I care about these young people greatly and deeply. And when we who are supposed to be the leaders of society set the example of violating the law--this is not a speeding violation; this is not even riding a motorcycle without a helmet. This rises to the level, in my way of thinking, of moral turpitude. It goes to the unfitness of a person to hold a position of trust. That man, and I'm talking about Hergert, has violated the law and that trust to such an extent that he is unfit to hold that office. And I'm not going to hide my hand...hide behind my hand, won't throw a rock and hide my hand. I want it known on the record where I am. By the way, I'm going to vote for Senator Redfield's motion to bring the bill back but I don't know if I'll support her amendment, and it's for some of the reasons that might have been touched on by Senator Raikes, although I don't know what his conclusion was. I think that leaders have that responsibility that I touched on, and when leaders violate the law and escape the law's consequences, they bring the whole law into contempt. Another issue that cannot be resolved or overlooked--that's the word I want to use--cannot be overlooked, is the fact that this rascal's counsel is the Speaker of the Legislature, Senator Brashear. I have a profound respect for Senator Brashear as a lawyer, as the Speaker, and which is rare for me, I even like him as a person. But when it comes to this particular situation, I have to look at it objectively. Caesar's wife must be above suspicion. There should be not even the appearance of impropriety. The appearance doesn't mean that impropriety occurred or you would charge impropriety. The code of professional responsibility places that obligation on lawyers. The code of judicial conduct places it on judges. Now a lawyer is to represent his or her client zealously. Obviously, that was done in this case because a rat who should have been put in the trap was allowed to take the cheese and run home with it. Hergert, his signature on that check for the fine was shaky, and people were wondering if he had some qualms of conscience and that's why his hand was unsteady. There were also blotches on the ink which indicates that tears had fallen, so they thought this was great remorse at what he had done. Being the investigator that I am, I checked this out. His signature was shaky because he couldn't stop

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 682

laughing, laughing so hard at how he had beaten the system, that he couldn't stop shaking from laughter. And he also laughed so hard that tears came out of his eyes, and that is what blotted the ink or made it run. Naturally, as far as I know, I'm being sarcastic, but you can't never tell...you can't ever tell about these things. Now I cannot but believe that when Senator Brashear walked into that hearing room, there was an air and aura of intimidation. The commission is not composed of the bravest people in the first place. The director knows that he sits under a sword of Damocles, supported by a thread, so he does not want to take on...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...a lion if he can get away with being a pussycat and assume that submissive posture and not have the lion's wrath turned on him. Am I saying Senator Brashear did anything unethical or illegal? Not on your life. But Senator Brashear is a very wise and savvy individual and he knows that by the Speaker of the Legislature walking in--and he can never be separated from that as long as he has that position, rather than another member of his firm handling this case--that aura, that impact would be felt. And by the commission following what I consider a gutless path, with all this whining about the difficulty of making a case, makes me feel that they should never, under any circumstances, ever even consider...

SENATOR CUDABACK: Time.

SENATOR CHAMBERS: ...charging anybody with a crime, no matter what is done.

SENATOR CUDABACK: Time, Senator Chambers.

SENATOR CHAMBERS: So soon?

SENATOR CUDABACK: Yes, so soon.

SENATOR CHAMBERS: We live so short and stay dead so long. I just thought I'd throw that in. Thank you, Mr. President.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 682

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Bourne, followed by Senator Chambers.

SENATOR BOURNE: Thank you, Mr. President and members. Would Senator Schimek yield to a question or two?

SENATOR CUDABACK: Senator Schimek, would you...

SENATOR SCHIMEK: Yes, thank you.

SENATOR BOURNE: Thank you, Senator Schimek, and I'll tell you, I'm trying to figure out what Senator Redfield's amendment does, but then I started looking a little closer at the bill and I'm kind of...I'm curious about why we need the bill. Could you tell us...I'm looking on page 2, and I've read through the language about when the vacancy occurs that the Governor shall hold a special election. And "shall," of course, means he or she has to do that. It's not optional. We recently had a situation in the 1st Congressional District where the incumbent retired or resigned, and I want to say he did that somewhere around...sometime in August. And the Governor at the time, Governor Johanns, elected not to have a special election. And I guess what I want you to do, if you would, is compare and contrast that situation of that individual resigning prior to the passage of LB 682 and after, if you would, so we can get a sense, a real sense of how this piece of legislation would work.

SENATOR SCHIMEK: Yes, thank you, Senator Bourne, and I'd be happy to do that. Actually, the resignation in Nebraska raised questions. But probably the thing that really triggered this was a court case in Ohio. And in that case,...

SENATOR BOURNE: Senator Schimek, if I could interrupt you now? That's a case in Ohio. Was that a circuit court?

SENATOR SCHIMEK: Yes.

SENATOR BOURNE: But it's not in the 8th Circuit, is it?

SENATOR SCHIMEK: No.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 682

SENATOR BOURNE: Okay. So it has no binding authority on us whatsoever.

SENATOR SCHIMEK: No, that's correct.

SENATOR BOURNE: Okay.

SENATOR SCHIMEK: But the court basically said that you don't have to have an election if it's going to have a de minimus effect, if there isn't very much time left before somebody takes office.

SENATOR BOURNE: I understand so, but would you...just as it related, everybody in the body and those people watching at home are familiar with Senator Bereuter resigning, so help us out, because it seemed to me that that was a wise decision that the Governor, Governor Johanns, made at that time, to not go ahead with a special election.

SENATOR SCHIMEK: At the time, perhaps, and I wouldn't...this really didn't play a lot into the discussion. But if you remember, Congress did go back into session...

SENATOR BOURNE: Now that was a lame duck session...

SENATOR SCHIMEK: Yes.

SENATOR BOURNE: ...which happens rarely.

SENATOR SCHIMEK: Which nobody really expected, and the 1st District ended up without anybody representing them during some really pretty critical discussions and debate.

SENATOR BOURNE: Okay.

SENATOR SCHIMEK: So that did lend itself to the discussion a little bit, yes.

SENATOR BOURNE: Okay. I guess what I'm saying, though, is generally if there had not been a lame duck session, the Governor...under LB 682, the Governor would still be forced to

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 682

hold the special election. And I don't know what a special election costs but, you know, lame duck sessions are fairly rare and that was a very unusual circumstance that I cannot recall ever happening prior in my experience watching politics. So I guess what I'm saying is how do we square the rarity of that circumstance with the expense of the special election?

SENATOR SCHIMEK: Yes. And, Senator Bourne, I think he resigned around September 1, a little bit before that. If that had occurred and this bill were in effect, what would happen is that special election would occur at the same time as the general election so, therefore, it...there wouldn't be much additional cost with it. Any other time of the year it would have to be a special election.

SENATOR CUDABACK: One minute.

SENATOR SCHIMEK: And, you know, if it occurred in, say, January or February, I think you'd want it to be a special election at that point.

SENATOR BOURNE: Senator Schimek, and I've turned my light on again because I don't understand Senator Redfield's amendment. But again, I'm going back to the bill. Why are we taking the discretion away from the executive officer, from the Governor of the state of Nebraska, as it relates to whether or not there should be an election, and a special election when somebody resigns?

SENATOR SCHIMEK: The House of Representatives has to be elected. It has...the House of Representatives has to be elected.

SENATOR BOURNE: Okay. I understand that, but I'm saying why are we taking the discretion away from the Governor as it relates to a special election? In this situation, and I will agree with you that the 1st District is absolutely entitled and should have representation, but had there not been a lame duck session, it would have...

SENATOR CUDABACK: Time, Senator Bourne. Thank you, Senator

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 682

Bourne. Senator Chambers, followed by Senator Bourne, on the motion to return.

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, since I'm confident that this bill will be returned, I will have an opportunity at that point to discuss the bill itself and some of the issues that are involved. But I've got to purge my spirit, purge my soul on this particular issue. It is surprising to me that there's not outrage throughout the state. It's a surprise to me that this man could have any defenders. You know why I say that? I come from one of the poorest districts in Omaha. I come from one of the districts where people who live there, being black like myself, people are more reviled and discriminated against than anywhere else in the state with the possible exception of Latinos and in some places Native Americans. But as a whole and on the whole, black people are the victims of all of the stereotypes, the hatred, the racist slurs and so forth. Even a baseball coach from the University of Oklahoma, in calling himself complimenting a young black guy, used the worst possible racial slur in the process. So when white people want to show respect for me, they use a racial slur and I'm supposed to overlook it and say, well, he was saying nice things about me, it just happened that the word came out. The coach said, that word does not represent his values. Well, the Holy "Bible" says, of the abundance of the heart, the mouth speaketh. As a man is in his heart, so is he. So when those things come out, that tells you what the person is. Hergert engaged in knowing, intentional violations of the law. The man committed crimes, and I'm going to carry through on what I said about talking to the Attorney General about seeing if he will prosecute. The difficulty of proving a case has never been a basis alone not to bring it. The facts in this case are clear. The public statements of this man can be documented. The laws that he violated can be shown to have been violated. And when you put all of the circumstances together, you have a circumstantial case stronger than some that have been used to get a person the death penalty. So I don't need the Attorney General, I don't need Daley at the commission, or any senator telling me that there's circumstantial evidence, you don't have a smoking gun, and all of these other whining alibis, because they fear to take this

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 682

bull by the horn. I don't need them to tell me that. And I'm going to talk about this issue and talk about this issue and talk about this issue. People talk a lot of times during the season of politics about one or the other's lack of integrity. Poor old Tom DeLay; just because he is a vicious, rotten skunk is being criticized in Congress, of all places. Just because Frist in the Senate, the U.S. Senate, is making use of and exploiting religion, he's being criticized by some. Well, these guys are "Repelicans." They are showing what their party is about. Now, I don't know if Hergert is a "Repelican." Probably he is. He fits the pattern. And I'm talking about the established and proved track record of these "Repelicans." Look at them. What was Richard Nixon, the President? What was Spiro Agnew, his Vice President? All "Repelicans." What was the guy in Illinois who had to get out of the race for the U.S. Senate which helped Barack Obama become a very young, black member of the U.S. Senate, because he was taking his wife to sex parties and wanting her to...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...strip naked in front of people. A "Repelican." Why, being a member of that party automatically brings you under a cloud. Now some of my good friends who are "Repelicans" are in there trying to convert them and raise the standard to somewhat raise them out of the gutter up onto the curbstone, if they can. I'm not going to fault them for undertaking this hard job. But when one of those people violates the law, openly and notoriously as this man does, if I were to be quiet, whereas the "Bibble" said, the stones themselves would rise up, take voice, and bear witness not only against him but against me, too. This is an issue which is not going to go away. The stench pervades the environment, and until we eradicate the source of it, the stench will remain there. Mr. President, thank you for indulging me.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Bourne, on the motion to return.

SENATOR BOURNE: Thank you, Mr. President and members. Would Senator Schimek yield to another question or two?

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 682

SENATOR CUDABACK: Senator Schimek, would you yield?

SENATOR SCHIMEK: Yes, I will.

SENATOR BOURNE: I intend to vote for LB 682, but I'm trying to figure out what Senator Redfield's amendment does. And I had said to you it's kind of confusing and you agreed with me, so I do appreciate that. But can you...

SENATOR SCHIMEK: Well, not just the Redfield amendment, the Schimek bill as well. (Laugh)

SENATOR BOURNE: No, I meant the entire area of statute. Could you boil down for me what the Redfield amendment does? I mean, as I see it, we've narrowed down, or we've extended the time that...from 60 days to 90 days during which the election would be held, but there's also...it seems to me that you have a shorter period of time to gather the signatures required to petition on.

SENATOR SCHIMEK: Well, Senator Bourne, I'll try, but you may also want to ask Senator Redfield to confirm, but...

SENATOR BOURNE: Well, oh...

SENATOR SCHIMEK: ...my understanding is...

SENATOR BOURNE: ...if I could just interrupt, Senator Schimek. The reason I'm asking you is because you undoubtedly had this as a bill, and I assume that you remembered this,...

SENATOR SCHIMEK: Right.

SENATOR BOURNE: ...this committee...this amendment from the hearing that it had.

SENATOR SCHIMEK: Not the amendment, Senator Bourne.

SENATOR BOURNE: This amendment that requires a person to petition on never had a hearing?

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 682

SENATOR SCHIMEK: No.

SENATOR BOURNE: Okay.

SENATOR SCHIMEK: But did you still want me to...

SENATOR BOURNE: If you can, I'd appreciate it,...

SENATOR SCHIMEK: Okay.

SENATOR BOURNE: ...because I know you worked so...

SENATOR SCHIMEK: Well, you just mentioned one of the things that's different. It would require people, allow people maybe I should say, to petition on, as opposed to just simply being able to file. Now one of the things that Senator Redfield did was she actually came up with a second amendment, because the first one with the 60-day provision did not allow enough time for people to go out and gather signatures, because you need about a 50-day...

SENATOR BOURNE: Okay. So your bill just simply says that you...if you file, pay your fee, you're on.

SENATOR SCHIMEK: Right, right.

SENATOR BOURNE: And Senator Redfield wants to change it so that, in addition to filing and paying your fee, you also have to get the signatures, the 1 percent of the voters from the last election.

SENATOR SCHIMEK: That's correct.

SENATOR BOURNE: Okay. And what...and I'll ask Senator Redfield the justification for that. But I guess what I'm trying to do is figure out how this actually works practically. So if there is a special election to be held, under the Redfield amendment, you'd have to petition on, you'd have to get 1 percent of the votes that were cast in the last Governor's election, and pay your filing fee?

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 682

SENATOR SCHIMEK: Yes.

SENATOR BOURNE: Okay. And can you give us the time frames to do this?

SENATOR SCHIMEK: Well, under the Redfield amendment, it...there would be a 90-day time frame, but you would actually only have about...I think about 25 days in which to gather your signatures.

SENATOR BOURNE: So and how many signatures are we talking about? How many votes were cast in a particular congressional district for the Governor's race?

SENATOR SCHIMEK: That's right, and I think it runs somewhere around 1,500 to 2,000 maybe. This is a guesstimate.

SENATOR BOURNE: Okay. And those are registered voters, so you'd need to gather...

SENATOR SCHIMEK: Yes.

SENATOR BOURNE: ...1,500 to 2,000 signatures in 25 days?

SENATOR SCHIMEK: That is correct.

SENATOR BOURNE: Okay. The idea for LB 682, I know that you've served on commissions along with the Secretary of State on ideas on how to enhance voter turnout and things of that nature; is that where this idea came from?

SENATOR SCHIMEK: No, it isn't. Actually, I think the Governor's office and the Secretary of State's office both approached us. Or maybe it was the Governor's office first. But then our three offices worked together on putting the language into this bill.

SENATOR BOURNE: Are you...do you intend to support the Redfield amendment?

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 38, 682

SENATOR SCHIMEK: I...Senator, what I told her is I'm going to let the body decide. And I'm not always this wishy-washy, but both I and the Governor's Office has said...

SENATOR CUDABACK: One minute.

SENATOR SCHIMEK: ...we don't really see a need for the amendment. It's not going to hurt the bill, but we don't think it really improves the bill, either.

SENATOR BOURNE: Well, I'm not worried about it hurting the bill. I'm trying to figure out what exactly it does. And I'm going to vote no on returning it until I can...maybe Senator Redfield will care to speak again to flesh this out a little bit more. But, number one, I'm under...I'm trying to understand why do we want to do this? Number two, I'm trying to figure out why this is coming up on Final Reading when, as you all know, the time to change it, if it's done improperly, is very limited and short. So hopefully, Senator Redfield will stand up and explain the amendment again or try to, and leave...maybe I'm having a slow day today, but I just do not understand what this amendment does, and I'm going to resist returning it until we can make sure that it makes sense.

SENATOR CUDABACK: Thank you, Senator Bourne. Speaker Brashear, you're recognized to speak.

SPEAKER BRASHEAR: Mr. President, members of the body, thank you. Mr. Clerk and I thought it important to inform you that we have a motion to reconsider with regard to LB 38E, which is the first item on your agenda. And Senator Raikes had to be unavoidably absent and was excused for a period of time and...but in order to keep our legislative day operating correctly, we will move to Senator Landis' motion to reconsider on LB 38E at the conclusion of our debate with and treatment with regard to LB 682. That will come early...at some point in the afternoon presumably, and we wanted to let you know that. Thank you for your attention.

SENATOR CUDABACK: Thank you, Speaker Brashear. Mr. Clerk, items for the record, please.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005 LB 120, 454A, 682
 LR 97

ASSISTANT CLERK: Mr. President, amendments to be printed to LB 120 from Senator Schrock; new resolution, LR 97, by Senator Fischer; a Reference Committee report on the previously mentioned bond issuance. New A bill. (Read LB 454A by title for the first time, Legislative Journal pages 1352-1355.)

Mr. President, I have a priority motion. Senator Kremer would move to recess until 1:30.

SENATOR CUDABACK: You've heard the motion to recess till 1:30. All in favor of the motion say aye. Opposed, nay. We are recessed till 1:30.

RECESS

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Good afternoon. Welcome to the George W. Norris Legislative Chamber. Senators, the afternoon session is about to reconvene. Please check in. Record please, Mr. Clerk.

ASSISTANT CLERK: There is a quorum present, Mr. President.

SENATOR CUDABACK: Mr. Clerk, tell the body where we were when we recessed for lunch.

ASSISTANT CLERK: Mr. President, prior to recess, the Legislature was considering a motion to return LB 682 to Select File for a specific amendment. That motion had been offered by Senator Redfield, and is now pending.

SENATOR CUDABACK: On the motion to return to Select File for a specific amendment, we shall open for discussion. Senator Redfield, there are no lights on. I will recognize you to close on your motion to return to Select File for a specific amendment.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 682

SENATOR REDFIELD: Thank you, Mr. President, members of the body. I want to thank Senator Schimek for supporting the amendment to return the bill for our discussion. And we will, in fact, if this motion is successful, have some time to answer all questions. What I will tell you is that most of the discussion we've had so far are about elements of the bill which we are leaving intact. The only difference in the amendment that I have proposed before you is that rather than someone who has, in effect, lost in the primary election being able to come back and put their name on the ballot again just by filing and paying the fee, this would require that they would have to go and get signatures and get their name back on the ballot by petition. That would apply to all candidates. We would have to treat everyone the same. So that's the essential difference. And then, of course, that requires that we change the time frame from 60 days to 90 days, allowing them 25 days to get the signatures. And then, of course, the Secretary of State's Office would have to verify those signatures. So that is the only change that I am proposing in LB 682. Instead of allowing a person to put their name on the ballot during other times of vacancy before August 1, instead of just paying the fee and filing, they would have to petition on with signatures. That is the essential element of the amendment, and I hope that you will return it to Select. If you have other questions, we can address them during that time. Thank you.

SENATOR CUDABACK: Thank you, Senator Redfield. You've heard the closing on the motion to return. The question is, shall LB 682 be returned to Select File for a specific amendment? All in favor vote aye; those opposed to the motion vote nay. We're voting on the question of whether to return LB 682 to Select File for a specific amendment or not. Record please, Mr. Clerk.

ASSISTANT CLERK: 34 ayes, 0 nays on the motion to return the bill, Mr. President.

SENATOR CUDABACK: The motion was successful. Mr. Clerk.

ASSISTANT CLERK: Senator Redfield would offer AM1325.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 682

SENATOR CUDABACK: Senator Redfield, you're recognized to open on AM1325 to LB 682.

SENATOR REDFIELD: Thank you, Mr. President, members of the body. The amendment, AM1325, increases the time frame for the election for vacancies that occur before August 1 from 60 days to 90 days. That would allow 25 days for them to gather signatures and petition onto the ballot. It also allows some time for the Secretary of State's Office to validate those signatures. The reason I believe this would be a preferable policy on our choice...or, on our part, is because, in fact, we don't have final elections that we allow people to file. We have had vacancies here in the Legislature, and the process is to go and to get the signatures and petition onto the ballot. Certainly, if there is a vacancy that occurs after a primary, we require people to petition and get the signatures to put their name on the ballot. If you have been through a primary and you have determined...the public has determined the winner of that primary, I think we want to recognize the public's input, and not create a process whereby the loser of that primary can, by filing a fee, put their name right back on the ballot for the position, even though it would only be for the remainder of that term. So we're talking about a temporary position. It would fill the vacancy up until the time that we had the general election and elected the permanent replacement for the following year, following term. I know it's been confusing. It was confusing when the bill was on General File. And we talked a lot about the constitutional provisions, and we really didn't get into this provision of the bill. So I thought that this might be more consistent with our current policy. I would like to see us be consistent in law, as...in as many areas as we can. And I look forward to the questions that might arise during the debate. I would ask your consideration of the amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Redfield. You've heard the opening on AM1325. (Visitors introduced.) On with discussion of the Redfield amendment, AM1325. Senator Schimek.

SENATOR SCHIMEK: Yes. Thank you, Mr. President and members. Senator Redfield, I just want to make sure that everybody

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 682

understands what you are trying to do here. And so essentially what you're doing in this amendment is saying that anybody, any other time, any other time other than that August up to the statewide election, or from between the election and the first of January, any other time that we have a vacancy, you are saying that that person may file by petition to get on the ballot. And as a result of that, the time gets lengthened to 90 days. And that would be true, then, throughout the whole calendar, except just between August 1, really, and the end of the year. Okay. And the person who would be elected any other time would serve out the vacated term. The person who would be elected between August 1 and...or, the vacancy was between August 1 and the general election, that person would receive...would serve the remaining term and then the succeeding term. Okay. That's clear. I think that I'm clear on what this amendment does. I think that Senator Redfield is right in suggesting that the only thing that she's changing, really, are those two things in the amendment. So with that, unless there are further questions, thank you very much.

SENATOR CUDABACK: Thank you, Senator Schimek. Further discussion on the Redfield amendment to LB 682? Seeing no lights on, Senator Redfield, I recognize you to close.

SENATOR REDFIELD: Thank you, Mr. President, members of the body. I want to thank Senator Schimek and all of those who have had questions and participated in the discussion. I think elections are important. I think it's important to recognize the will of the people, and to give them the opportunity to express that will. And I believe this would improve the process. But I do recognize that the committee did excellent work. And that's why in the amendment I was trying to mirror their process as much as possible for...the process for all other times where a vacancy may occur. I would ask for your support on the amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Redfield. You've heard the closing on AM1325. The question before the body is, shall that amendment be adopted? All in favor of the motion vote aye; those opposed to the motion vote nay. We're voting on the Redfield amendment, AM1325. Have you all voted who wish to?

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 38, 682

Record please, Mr. Clerk.

ASSISTANT CLERK: 31 ayes, 1 nay on the adoption of Senator Redfield's amendment.

SENATOR CUDABACK: The Redfield amendment was successful. Mister...or, Senator Flood, rather, for a motion.

SENATOR FLOOD: Mr. President, I move the advancement of LB 682 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 682 to E & R for engrossing. All in favor of the motion say aye. Opposed to the motion, nay. It is advanced. Mr. Clerk, motion on the desk.

ASSISTANT CLERK: Mr. President, pursuant to the Speaker's agenda, a motion to reconsider LB 38 has been filed, and that item is now under consideration.

SENATOR CUDABACK: Senator Landis, to open on your motion to reconsider.

SENATOR LANDIS: Thank you very much, Senator Cudaback, members of the Legislature. I contributed to the difficulty that occurred this morning in not getting to the 33 votes for the E clause, by being in my office and working with some folks from ADM in Lincoln, who wanted to talk about a piece of legislation coming up. That, along with a couple of absences, meant that there weren't 33 votes for a bill that had the majority support of the body. This was the measure that we had to do with respect to the community college system, and particularly with Northeast Community College. So we wound up a couple of votes short on getting the 33 votes for an E clause. Now understand, the effect of this morning is that without regard to the success of this motion, LB 38 has passed. And what now is the question is whether or not to reconsider, for the purpose of then bringing up the E clause vote, to see if there, in fact, is the sufficient number that will get us 33 votes and the E clause. What is at stake? The amount of time that the community colleges will have for their budget preparation and their budget

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 38

hearings will expand if we have the E clause. It will be contracted without, because the bill will be effective 90 days after the legislative session. Is it impossible to make use of LB 38? The answer comes back, no, it's not impossible, even if the E clause is unsuccessful and we pass it just as it is. However, the notice to the public, the amount of time to prepare, the opportunity for community information gathering, and preparing for the process, shrinks, in that you don't know what the status of the...you have a limited status at the end of the time in which LB 38 becomes effective before the budgets are due. Better to have a more expansive period to take testimony, hear from the public, respond to it, reconsider the budget, make adjustments, take it back to the public, and that kind of a thing. So LB 38, with an E clause, gives the community colleges greater flexibility than they now have for the budgeting process. My guess is that you want that budgeting process flexible, because you want as much public input as possible. And I think LB 38E does that better than LB 38 without the E clause. For that reason, I agreed to introduce this motion, in consultation with Senator Raikes. I would defer to Senator Raikes the remainder of my opening.

SENATOR CUDABACK: You've heard the opening on the motion to reconsider, as stated by the Clerk and the Speaker. Now open for discussion on that motion. Senator Raikes.

SENATOR RAIKES: Thank you very much, Mr. President, members. Thank you, Senator Landis. I think Senator Landis has laid out the case very well. The issue here is not on...necessarily on the merits of the bill. That's been decided. The bill will go into effect. What we're asking here is that you help us implement it more effectively. The E clause would allow more time for the hearing; therefore, more public awareness, more opportunity for...more time, I should say, for the public to know about the board's decision. So I think, all in all, it's something that makes a lot of sense, and I would urge your support for this motion. Thank you.

SENATOR CUDABACK: Thank you, Senator Raikes. On with discussion, Senator Chambers, followed by Senator Bourne.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 38

SENATOR CHAMBERS: Mr. President, members of the Legislature, I voted no on the bill this morning, and I will continue in that position. I just want to make it clear that "E clause" does not stand for "Ernie clause." My children, when they were real little, if they thought they got Christmas gifts by somebody who come down the chimney, they might say, not Santa Claus, but "Ernie Claus." However, that wasn't the case in my house. In this particular situation, I do not agree with the underlying premise of the bill itself. So I'm going to vote against the reconsideration motion. If that is successful, I will vote against...any time we vote on this bill, I'm going to vote red because the only votes that will be taken are those that would be designed to advance the bill. I don't know whether anybody else has any significant concerns about the bill. But this is the time to speak. As they say before somebody takes that plunge into the abyss: Speak now, or forever hold your peace. And the one about to take the leap doesn't have the courage, even though misguided, of that woman down in Duluth, Georgia, who decided, this is not for me, I'm getting out of here. They'll stand up there before the preacher, just hoping that somebody is going to speak up and give them a last-minute reprieve. But I have never seen that happen. On the floor of the Legislature, it is different. There is more at stake. If you oppose the bill, you should make it clear why, in my view. Generally, on Final Reading bills get an automatic green vote, because there is no reason, in most instances, not to vote green. This bill does have consequences. It does have ramifications. And because I'm not in agreement with what the bill is designed to do, I will continue to vote red. Maybe over the noonhour some people who voted red this morning will turn around and vote green instead. We'll have to wait and see. But I hope the bill does not get the 33 votes. And that is all, at this point, I will say, Mr. President. But I will wait and hear what others say. And I will indicate that I thought that Senator Connealy's dad was giving the prayer this morning, because Senator Cudaback kept saying "Father" this and "Father" that, and the only one other...the only other person mentioned was Senator Connealy. So I thought he was talking about Senator Connealy's dad. But I find out that I was mistaken. And I hope Senator Cudaback may have been mistaken, too. That's all that I have at this point. Thank you, Mr. President.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 38

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Bourne.

SENATOR BOURNE: Thank you, Mr. President, members. And I'll be voting no on this as well. I was...I can't resist the temptation to needle Senator Landis a little bit. He had a favorite saying in the Revenue Committee: Must be present to win, (Laughter) is what he would (laugh)...listen, I've opposed the bill from the beginning, although I appreciate what those folks from that area are trying to do. I haven't spoken a lot on the bill. I think you'll notice that. Here's my struggle. I voted for the tax increase a couple years ago, because I felt we didn't have a choice. And I don't feel the same thing today. We have cut the community colleges, but we also have, a time or two, given them additional levy authority to respond to those budget cuts. I have a philosophical position, and I am struggling as to why we're allowing a community college to develop a new campus when we can't afford to pay for the ones we have. I appreciate what Senator Landis is saying as it regards to process, that people need input. That's somewhat compelling to me. But there's nothing in the bill that requires there to be, as I read it, a process by which people get to speak and object to this increase. As I read it, it just says that the community colleges can raise this levy. And I just...again, I'm going to be voting no. I'll continue to vote no. As I understand it, Senator Landis needs 33 votes to even reconsider the motion, as I read the rules. But I'm not going to support a tax increase that's not necessary. And again, I've showed my colors in the past, that I have voted for tax increases when I felt we absolutely did not have a choice. But I don't feel that that's the case today. So I'll continue to vote no on this, as well. Thank you.

SENATOR CUDABACK: Thank you, Senator Bourne. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, Senator Bourne is tastefully attired this morning. As I told Senator Erdman when he came here all coordinated one day, that I'm sure his wife dressed him. I don't know where Senator Bourne got the assistance, but he has on his diplomatic attire. And his presentation was very diplomatic, right to the point.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 38

And I couldn't express in fewer words than Senator Bourne what my position is. I've voted for tax increases in the past also. If I listened and heard the discussion earlier, this is one of those operations that was trying to be frugal, give the appearance they're not spending much money, and they could look better than everybody else who was just spendthrift and throwing money away. Then that imprudence caught up with them, overtook them, and now we are being asked as a body to vote for what Senator Bourne correctly characterized as a tax increase. What we have to let these agencies know--and I'll only be around for three years and a few more months to try to do that--is that they must take the long-range view, do those things that are beneficial for the health of the organism itself, and not do things piecemeal, here and there, for instant gratification, to maybe win an election, or to be able to tell people that I have not voted for a tax increase, we could raise more money than we have now, but because we are so prudent and so frugal, we're not going to do it. Then here they come running back when their lack of judgment overtakes them. We had a person who was a member of the Legislature, who was against any kind of decent amounts of money being laid aside, and even went along, perhaps, with money being cut from the Auditor's budget, because he was trying to make a point. Then, when she got to be the Auditor, the first thing she had to do was come and ask for some money. The same with the current Attorney General. Many people, when they're on this floor, will take positions that are purely and simply political. We are state--with emphasis on the word "state"--senators. If others are not going to take what you might call a world view, or a panoramic view, we are the ones who should. Maybe these community colleges, state colleges, various boards and agencies can take a fragmented, piecemeal approach, because they only have one little corner to look at. We are the policy makers. To not bring this word to the level of a cliché, we formulate the overarching policy under which everything else is to be considered. And if we are going to fragment the system and break it up here, break it up there, break it up elsewhere, it could even come back and bite the Legislature. The consistency, the soundness of our policy decisions should be reflected in the laws that we enact. I am going to continue to vote no on this proposition. Not being a member of the Revenue Committee, I don't have the benefit of

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 38

Senator Landis' nuggets of wisdom. But every now and then, he will share one with us out here. Senator Bourne really socked it to Senator Landis with that "you've got to be present to win." I like that. Sometimes you don't have to be present to win, if you are a looming, overarching enough...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...presence. I hope that the 33 votes are not given. The 33 votes are not necessary. This bill does not need the emergency clause. We should not just casually and whimsically add that clause because somebody wants it. There is, in fact, no emergency of any kind. There is nothing in terms of the active ingredients in this bill which will be harmed without the emergency clause. We should replicate what we did this morning. We were correct then. We will be incorrect if we toss that aside without achieving anything worthwhile or of significance. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Further discussion. Seeing no lights on, Senator Landis, you're recognized to close on your motion to reconsider.

SENATOR LANDIS: I think Senator Chambers and Senator Bourne and I would agree that in fact the situation is this--it is possible for LB 38 to work without the E clause. However, the point of distinction is this--that with the E clause it is, I think, able to work better. It is...and it works better to the benefit of the general public, not just the community college system, but the general public, by allowing greater access to the budgeting process and allowing that process, in a flexible manner, to give notice to the public and a chance to react, greater than if it is pushed to the very last minute of the budgeting cycle. For that reason, I think there is merit in calling back LB 38 and adding to it the E clause. Understanding that the bill will become law without the E clause, the E clause allows, I think, for the better administration of the act. And for that reason, I would ask for the reconsideration and the return of the bill for the E clause vote.

SENATOR CUDABACK: Thank you, Senator Landis. You've heard the

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 38

closing. You've heard the closing. And Senator Chambers, we are closing. All in favor to reconsider...there will be two votes, by the way--one to right to reconsider, and after that, whether to add the E clause. And this does require 33 votes. All in favor right to reconsider, vote aye; those opposed, nay. It requires 33 votes. Have you all voted who care to? Senator Landis, for what purpose do you rise?

SENATOR LANDIS: Thank you. I'd ask for a call of the house.

SENATOR CUDABACK: Senator Chambers (sic), we are on Final Reading, so you can require everybody to check in, if you wish. Wish...

SENATOR LANDIS: If you would, please.

SENATOR CUDABACK: All members, check in. We are on Final Reading. Senator Foley, Senator Burling, Senator Smith. Members should be in their seats and checked in. Senator Jensen, Senator Byars, Senator Kopplin. Mr. Clerk, please call the roll on the question. Senator Landis, for what purpose did you...?

SENATOR LANDIS: And could we have a roll call vote in regular order?

SENATOR CUDABACK: Yes, I stated that. Thank you, Senator Landis. Mr. Clerk, call the roll in regular order.

ASSISTANT CLERK: (Roll call vote taken, Legislative Journal page 1356.) The vote is 34 ayes, 12 nays on the motion to reconsider, Mr. President.

SENATOR CUDABACK: The motion was successful. All provisions of law relative to procedure having been complied with, the question is, shall LB 38E pass with the emergency clause added? All in favor vote aye; opposed, nay. Have you all voted on the question who care to? There's been a request for a roll call vote, regular order. Mr. Clerk, when you get time, please call the roll in regular order.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 38, 382, 551, 753
LR 78, 80, 81-85

ASSISTANT CLERK: (Roll call vote taken, Legislative Journal page 1357.) The vote is 33 ayes, 12 nays.

SENATOR CUDABACK: The motion to add the E clause to LB 38 was successful. We now move on to Select File, 2005 committee second priority bills.

SPEAKER BRASHEAR PRESIDING

SPEAKER BRASHEAR: Members, while the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign the following legislative resolutions: LR 78, LR 80, LR 81, LR 82, LR 83, LR 84, and LR 85. Thank you. And also, I propose to sign and do hereby sign legislative bills LB 382, LB 551, and LB 38. Thank you.

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: We're now on Select File. Mr. Clerk, LB 753.

ASSISTANT CLERK: Mr. President, with respect to LB 753, there are E & R amendments. (AM7074, Legislative Journal page 1077.)

SENATOR CUDABACK: Senator Flood. Senator Flood, E & R amendments to LB 753.

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendments to LB 753.

SENATOR CUDABACK: You've heard the motion to adopt the E & R amendments to LB 753. All in favor say aye. Opposed, nay. The E & R amendments are adopted.

ASSISTANT CLERK: Mr. President, Senator Bourne would move to amend with AM1136. (Legislative Journal page 1159.)

SENATOR CUDABACK: Senator Bourne, you're recognized to open on your amendment to LB 753.

SENATOR BOURNE: Thank you, Mr. President, members. If you

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 753

recall this bill from General File, this was the bill that clarified how the Department of Revenue treats electrical contractors as it relates to utilities. And this is a bill that I introduced on behalf of the electrical contractors. Senator Landis and the Revenue Committee was kind enough to prioritize this as one of their committee priorities, to clarify the status of the law. And if you'll recall, during the General File debate, we had...oh, there wasn't exactly clarity as it related to the fiscal note. But at the time, we made a commitment to try to come up with an amendment that would further narrow the focus of what this actually does, and here is the attempt. And basically, what we're saying is, the narrowing is, is that in that period between the court case and the passage of LB 759, utilities and electrical contractors are being separate...are being treated separately, in that the electrical contractors did not have to pay a tax on labor during that time frame. After the passage of LB 759, it's clear that they do pay taxes on their labor. But we're trying to clarify that window between the passage of the court case that gave the Department of Revenue the indication that they should treat an electrical contractor like a utility. We're trying to provide clarification, and the narrowing amendment says that it's on the customer's side of the utility demarcation point. And the demarcation point is the wall. So anything that is done by an electrical contractor inside the walls of a premise during the period of the court case decision being handed down and the passage of LB 759, we're making clear that there is no tax due and owing on the electrical contractors' labor for that time period. With that, I'd appreciate your support of this amendment that narrows the scope of LB 753, and hopefully solves the problem and the confusion that was generated by LB 759 as it relates to electrical contractors and utilities. Thank you.

SENATOR CUDABACK: Thank you, Senator Bourne. You've heard the opening on AM1136 to LB 753. Open for discussion. Senator Bourne, I do not see anybody wishing to discuss. Senator Bourne waives closing. The question before the body is adoption of AM1136, offered by Senator Bourne to LB 753. All in favor vote aye; those opposed, nay. The question before the body is adoption of the Bourne amendment, AM1136. Have you all voted on the question who care to? Record please, Mr. Clerk.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117, 753

ASSISTANT CLERK: 32 ayes, 1 nay on the adoption of Senator Bourne's amendment.

SENATOR CUDABACK: The amendment has been adopted. Anything further on the bill, Mr. Clerk?

ASSISTANT CLERK: Mr. President, I have nothing further.

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the advancement of LB 753 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 753 to E & R for engrossing. All in favor of that motion say aye. Opposed to the motion, nay. It is successful. LB 753 is advanced. We will now move on to General File, 2005 senator priority bills, the McDonald division. Mr. Clerk, LB 117. Inform the body where we were...we are, rather.

ASSISTANT CLERK: Mr. President, LB 117. (Read title.) The bill was read for the first time on January 6, referred to the Judiciary Committee. That committee advanced the bill to General File with committee amendments. The committee amendments were divided and considered previously. At the present time, under consideration is FA192. When we last considered the bill, Senator Beutler had offered AM1181 to that portion of the divided committee amendment. (Legislative Journal page 1189.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Bourne, would you take a few minutes and update the body on the bill itself and the Judiciary Committee amendment?

SENATOR BOURNE: Thank you, Mr. President, members. As you'll recall from last week, this is a bill that was introduced on behalf of the Governor that is trying to attack the methamphetamine problem here in Nebraska. The committee amendment sets out the following things, that...it limits the packaging of pseudoephedrine-based products to 1,440 milligrams

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

of pseudoephedrine base. So a person can purchase one 1,440-milligram package in a 24-hour period. It requires the product be stored behind the counter or in a locked case. Requires that the product can only be sold by someone 19 years of age or older. That's similar to alcohol sales. Requires that the purchaser must be 18 years of age. That's the same as tobacco products. Requires the customer show proof of ID, but does not require the merchant to verify the validity of that ID. It limits the amount of product...oh, I said that already, 1,440 milligrams in a 24-hour period. It harmonizes the penalties between those exceptionally hazardous drugs, i.e., cocaine, methamphetamine, and heroin. And it enhances the penalty for someone who manufactures or distributes methamphetamine if they use a firearm during that conduct. This particular amendment that we're dealing with states that a customer must show an identification--operator's license, or state ID card as proof of identification. And that's the amendment that we're working on, Mr. President.

SENATOR CUDABACK: Thank you, Senator Bourne. Senator Beutler, would you give us a quick review on your amendment to the divided committee amendments? You may go. You may proceed. Senator Beutler. Senator Beutler?

SENATOR BEUTLER: Am I on, Senator Cudaback?

SENATOR CUDABACK: You are. Sorry about that.

SENATOR BEUTLER: I don't feel very turned on. But it's kind of old stuff getting back to this bill. (Laugh) You may recall that we had a discussion of some length in the prior debate with respect to the efficacy of a log. Many states, you may recall, have...require a log-in with respect to the purchase of these types of items. And the amendment simply picked up the language from the green copy bill which itself had the log requirement. So that's where we are in the debate. And I won't get further into the arguments at this point. Thank you, Senator Cudaback.

SENATOR CUDABACK: Thank you, Senator Beutler. You've heard the review on both the bill and the committee amendments and the amendment to the committee amendments. Open for discussion.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

Senator Chambers.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I was in a high-level conference. I am not in favor of Senator Beutler's amendment. Keep this in mind. What is the purpose of the logbook? Let's say that it is to give law enforcement some kind of trail to follow regarding everybody who has made a purchase of a legal product that doesn't require a prescription. Senator Johnson, I think, may have been the one who talked about a database. And you could have one trooper sitting at that database, calling up names. What I cannot seem to get through my colleagues' skulls into their brain is this. Why are you going to make every citizen a part of a law enforcement operation? Why are you going to put the names of citizens in a data bank used for law enforcement purposes, when that person has not only not violated the law, has not even given probable cause for a cop to believe that person violated the law? You talk about going head over heels into the abyss where you find law enforcement trying to provide answers to social problems, and you have LB 117. I do not want ordinary citizens to be part of a law enforcement database. I have opposed that when it comes to collecting DNA, even from people convicted of crimes. Just because there is some kind of technology available is no justification to use it against the innocent. And that's what all of these kind of bills move toward. The impact is overwhelmingly on the innocent. You all would rather discommode 99.9 percent of the innocent citizens to get .1 percent, perhaps. And you're not going to get all of them. By now you should have a copy of the article that I handed around. I had said more than 80 percent of this methamphetamine is coming from outside of the state. On the floor, the insistence was that it's 80 percent. That is extremely high. But if you look at the article that I gave you, the State Patrol acknowledged that less than 20 percent of this stuff is produced in Nebraska. That means more than 80 percent comes from outside Nebraska, which is what I argued. Senator Aguilar and some others, and especially the Attorney General, probably the Governor, have kept saying 80 percent, to get you to thinking that the 80 percent is of no consequence. Just give these cops whatever they say they need to get this information on private citizens. This information is not going to tell them

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

where one of these labs is located. It's not going to tell them anything other than the private business of somebody who simply went into a store to purchase a legal over-the-counter medication, although it might be behind the counter in a glass case now. Do that, and I have no objection. But all of this other stuff I object to strenuously. I'd like to ask a question of Senator Bourne.

SENATOR CUDABACK: Senator Bourne, would you yield?

SENATOR BOURNE: Of course.

SENATOR CHAMBERS: Senator Bourne, if a person makes a purchase greater than the amount that's allowed within 24 hours, is that offense an infraction?

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: Because I haven't got clear in my mind what all these various offenses are yet.

SENATOR BOURNE: You know, Senator Chambers,...let's see, it is...yes, it is an infraction. The first offense is not more than \$100. The second offense in a two-year period is \$100 to \$300. And the third offense in a two-year period is \$200 to \$500.

SENATOR CHAMBERS: But it's still labeled an infraction?

SENATOR BOURNE: Yes, sir.

SENATOR CHAMBERS: Thank you. And Mr. President, since my time is up, I'll wait till I'm recognized again to continue. Thank you.

SENATOR CUDABACK: And you're recognized right now, Senator Chambers. You may continue.

SENATOR CHAMBERS: Mr. President, thank you. I'm glad you recognized me. It was such a short time since I last spoke, so I'm glad to know that I'm recognized and not forgotten that

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

quickly. Members of the Legislature, look at this, if you can gather enough of your mental faculties to stay with us. I know we had an eventful morning. You were treated to some a cappella singing. Senator Landis thought I was going to go after his bill, so he wasn't going to give me such a nice review. But when he found out that my meanness wasn't directed at him, I think all of a sudden my singing took on a note that allowed it to apply to him, that expression, music hath charm to soothe the savage breast. I don't know why people say the savage beast. That's not what it says. To soothe the savage breast. Now, what I'm getting to is this. For an infraction, my conservative colleagues are going to agree to put innocent people into a law enforcement database? Why, this is 1984 kind of stuff. Brothers and sisters, an infraction. That is the mildest offense known to your law. For a trifling offense, you want them in a database. But remember, these people have not committed an offense. Somebody says there might be somebody among those hundreds or thousands of people who may commit an offense. What offense did they commit? Well, they bought one box more of this stuff than they're allowed to have. And for that one, you're going to build a database to put all of your friends and neighbors, even your enemies, into it to placate law enforcement? That is totally irresponsible. It is not just Senator Beutler's amendment that I am taking umbrage at. I don't like the thrust of the bill. It is not a practical attack against methamphetamine. These cops do not have a magical or virtually magical method for locating these methamphetamine laboratories. If you gave law enforcement the logbook, they have already said they're not interested in using it. They don't want to have to go in there looking and rummaging through all these pages. I've told you over and over what they say it's for. Being pop psychologists, p-o-p, for popular, psychologists, they've concluded that anybody in this line of work, the methamphetamine profession, is paranoid, nervous, jumpy, thinks somebody is watching all the time. So if this person, who is desperate, a desperado, comes in the store and has to sign a book, then that's going to frighten this person, and the book won't be signed and the purchase won't be made. Who told you that? All they have to do is go around to various stores. And if they're as desperate as everybody says, you think they're not going to expend the time and energy to go

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

around to various stores and get this stuff? Let's say one is truly desperate, shaking like a leaf on a tree, eyes peering from under those overhanging brows. And not only is the brow overhanging, but when you get above the eyebrows, it recedes and disappears, and...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...there's nothing. A brow that disappears...no brow whatsoever, just the brow ridges. Shoulders hunched up over the neck, has no neck. All he'd have to do, Senator Bourne, is put on one of those old animal skins and take a club with a nail in it, and he'd look like a sure-enough Neanderthal man, or woman, or whatever they were. So here come Mr. and Mrs. Neanderthal to get some Sudafed, desperate. And you say, if you're the clerk,...who has now been made an adjunct to law enforcement, which I also object to. These ordinary people should not be made adjuncts to law enforcement. They should be no part of the law enforcement machinery. People don't think clearly of what is being done, and they will not look at what we are doing. So Mr. Neanderthal says, I want some Sudafed. And this person says, sign the book. Mr. Neanderthal says, well, I can't write. Well, you can't get any Sudafed.

SENATOR CUDABACK: Time, Senator Chambers.

SENATOR CHAMBERS: Do you see this club? And the clerk says, well, yes, I do. Would you like this club to stay in my hand, or do you want it to rest aside your skull?

SENATOR CUDABACK: Time, Senator.

SENATOR CHAMBERS: But since your skull is not as thick as mine, it will break like an eggshell. Yes, Mr. President.

SENATOR CUDABACK: Thank you. (Visitors introduced.) On with discussion. Senator Burling. Senator Burling.

SENATOR BURLING: (Microphone malfunction)...logbook idea. And last week we talked about the limited quantity that one person

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

could buy in a 24-hour period. And so that's behind us. I'm not going to ask a question of any particular senator, but I'll just kind of throw this out for you to think about, probably before or on Select File, if the bill gets there. I could support logbook signing for purchase of these products if we remove the limitation amount...limitation on the amount. I'm wondering what other states are doing as far as the limitation quantity is concerned on one purchase. Are we upsetting the marketing and merchandising plan of interstate retailers? Are they going to have to market different size packages in different states to comply with these methamphetamine laws? And how does that affect quantity sales, discount for volume, so on and so forth? So something to think about now and maybe before Select File, on how other states are approaching this quantity limit, and how that impacts whether or not we would support putting the logbook requirement back in or leaving it out. So with that, Mr. President, return my time to the Chair.

SENATOR CUDABACK: Thank you, Senator Burling. On with discussion. Senator Brown, followed by Senator Chambers.

SENATOR BROWN: Mr. President, members. Of the information that has come out about the other states that have passed legislation similar to what is being proposed here,...and all those other states are probably in somewhat a similar boat that we are, that the preponderance of the meth that's available is coming in from Mexico. In those...in the bordering states that have not passed legislation that limits the amount, that proposes some sort of a screening process at the time of purchase, those bordering states have seen an increase in the residents of the state that's passed the legislation. That in and of itself shows that this kind of bill is effective in slowing down the homemade meth problem, so that you can...whatever you believe that that problem is, whether it's 20 percent, or even less than that, we can hope that we're going to see a slowdown. And I believe, based on what's happened in other states, that we will. And that allow...that frees up time. It protects us because we're not going to have the homemade situation, which carries a number of other kinds of risks to society besides the meth addiction risk. And it frees up the time of the State Patrol to concentrate on the imported methamphetamine. So I think that

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

what we need to be talking about is what we want in place. What are the most effective pieces? But I think that the basic piece that is this bill is absolutely essential for us to do. I disagree wholeheartedly that...with Senator Chambers, that it's not going to have an impact, because we...it may be a limited impact, based on the amount of homemade meth that there is available in the state of Nebraska, but it will have an impact on the homemade meth. Thank you.

SENATOR CUDABACK: Thank you, Senator Brown. Senator Chambers. And this will be your third time, Senator.

SENATOR CHAMBERS: Thank you, Mr. President. While I was on my way up here, I heard most of what Senator Brown said. And it's the same approach: It may do something; nobody can say what for sure. They won't talk about the other side that I continue to belabor. It is certainly doing something to the innocent citizens, those who have done nothing wrong, have no intent to do anything wrong. This is the same Legislature which grumbles and whines and complains about what they call unfunded mandates from the federal government, being told to do things that the conservative legislators deem to be too intrusive. When we who are at the state level enact bills of this kind in a panic, or to tag along behind other states, it is a mistake. I do believe in civil liberties. I believe in the right of citizens to be secure in their persons and their effects, not only from unreasonable searches and seizures by the law, meaning law enforcement, but unwise, unnecessary intrusions into their day-to-day activities by the Legislature. Making a purchase of Sudafed or one of these other products is a normal, ordinary activity. A scourge has reared its multiple heads--methamphetamine. There was another one that the young people were dealing with a while ago, but I can't remember what it was. They didn't call it ice, but it was something that had everybody in a tizzy, and I can't even remember the name of it now. Methamphetamine was a drug that the outlaw motorcyclists cornered the market on. People became aware of how to make this stuff in homes, garages, isolated rural areas, and sometimes in areas that are not so isolated. I have not heard anybody disagree with the devastating impact of methamphetamine, nor express opposition to the desirability of trying to eliminate

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

it, which is never going to happen. But to simply say, because the drug is so deleterious and devastating in its impact, because there is damage to people who manufacture it, sometimes even to members of that person's family, including children, therefore, all of society can be intruded upon in day-to-day activities without being sure that you're even going to come within 10 feet of the scourge itself. But you feel like you've done something. Well by God, we made it hard to get Sudafed now. Then where is all this methamphetamine coming from? Why are they still making arrests? Why are there people still getting on methamphetamine and acting like they've lost their mind? Because the bulk of it is still coming from where it always came from. More than 80 percent. Probably closer to that 90 or 95 percent amount. And you know why you can say that? Because they don't know how many methamphetamine labs are here or how much is actually produced by these labs. But they do know how much is flooding into this country from the southwest. They know that. And flooding into this and other states. These bills make politicians feel good. And when the ones who pass the bill are the ones who are going to manufacture the statistics, you know what they're going to say--that everything is cool now. We don't have the problems. Then you hear that a lab blew up someplace. Well, where did that lab come from? Well, we never said we could get them all. Another one blows up. What about that one? Well, we never said we could get them all.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: It's like this country has done in Iraq. They created a wasteland and called it peace. I think Tacitus said that. They, meaning your military and the "Bushites," had said that the insurgency is under control. And it is more in evidence now than ever before. They look the other way, and they say things. Every day, in every way, the world is a better and better place. And that mantra is supposed to make the world better? That doesn't happen. That is not realistic. This bill is not a realistic approach to doing anything about this problem. I'm opposed to it. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. On with

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

discussion of AM1181. Senator Stuthman, followed by Senator Heidemann.

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I've been listening to the debate, listening to the opposition, listening to the proponents. The thing that I think we need to really be serious about is, how do we solve this problem? We've got the opposition saying they don't like this or don't like this. Have they got a solution? How can we get this problem solved? It is a problem. And I think we will all admit to this, that it is a problem. I think we should realistically, you know, be working with this bill. But also, we should expand on it. We should expand our efforts of trying to solve the problem. Where is the big problem? In my opinion, the problem is in two areas. One of the big areas is the imported methamphetamine coming into the state. That is a huge problem. How do we solve this? What action should we take to try to solve this, try to curb that? The next thing that we have, which does consume a lot of time for law enforcement to try to curb, is the ones that are cooking the meth, the little labs in the back yard, in the garages, in the vans. Those are the problems. I sympathize with elderly people or anyone, you know, that is going to have to have a little bit of an inconvenience for trying to buy pseudoephedrine in the local retail outlet. Should we be concerned about those people? Yes, we should be. Should we be targeting our efforts directly to the cooks and to the importers? That is where I think we really need to be doing something. One of the things in my local community that was a really, really a kind of a disgusting part of law enforcement, of what they're trying to accomplish and not being able to get it done, they come along onto one of these labs, they do take the manufacturers in to the county jail overnight. The next morning they're on the phone calling for bail money, and they're out. They have no problem of getting their bail money, because their league of people has got some money, because that's what they deal with. They're a cash business. They can find money. They can get \$1,000 to make their bail. That's on Friday morning. On Saturday night, they're back in the manufacturing business, busy at it again, making meth for themselves and for a little bit additional income, getting another person onto meth. And I sympathize for

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

the people that get hooked on meth. I'm not after these people. I am realistically after those that are manufacturing the meth, doing it as a business in the communities, and are really a liability to the community. So let's work on, you know, trying to accomplish that problem. Let's make it tough on those cookers and the people that are importing it in. Let's not make it a problem for the average citizen. Maybe we should refocus a little bit. Maybe we need to do that after we pass this bill, use this as a stepping stone. Then, you know, get something really solid...

SENATOR CUDABACK: One minute.

SENATOR STUTHMAN: ...against the cooks. That is where the real problem comes from. If we can get those cooks, you know, out of the business, and then deal with the importation of the meth, which is, what they claim, 80 percent of our problem coming in, we can concentrate on that. So I think let's try to be part of the solution. Let's not try to be part of the problem. Let's work on a solution. We all know it's a problem. It's a real problem in communities, and getting worse by the day. So I think we should really concentrate on using this bill as a stepping stone, but realistically expand upon that so that we can conquer this. We do not continually have to work on treatment of these people. But the people that are addicted, you know, they have to have something that they can rely on as far...

SENATOR CUDABACK: Time, Senator.

SENATOR STUTHMAN: ...as treatment. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuthman. On with discussion. Senator Heidemann.

SENATOR HEIDEMANN: Senator Cudaback, fellow members, I, too, am like Senator Chambers. I do not like the government to come in and tell me that I have to put my name on certain things, that they can track me. But I've had so many people come up from my district, and people from the state, and say, we have a problem here, and we are willing to be inconvenienced with this, and we

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

will support this, because we know we have a problem, and we have to try to do something. We have to address this. And it may be true that only 20 percent of the meth is actually made in Nebraska. But I've been told that law enforcement spends so much time and effort on that 20 percent that they don't have time to go out and worry about the 80 percent that's coming from the southwest part of the United States. If we can slow down these meth labs, maybe it will give them more of an opportunity to try to slow and stop that stuff that's coming in from other states. My big concern is, if we don't do anything and all the surrounding states do something, everybody is going to come to this state because they know it's easy to cook their meth and get their ingredients. This might be one of the very few instances when everybody else is jumping off the cliff that we better maybe jump, too, or we could get affected down the road in a negative way. We keep talking about this bill as being a Band-Aid. Maybe we shouldn't look at it as being a Band-Aid, but a tourniquet. And we're...with this bill, we're making the first twist on this tourniquet. And if we got to do it bill by bill to address this problem, then that's what we need to do. But this is a tourniquet. This is the first twist. Let's start. I support this amendment and I support this bill. With that, I'll give the rest of my time back to the Chair. Thank you.

SENATOR CUDABACK: Thank you, Senator Heidemann. Senator Engel.

SENATOR ENGEL: Mr. President, members of the body, as I've talked before, you know how I feel about meth and how it affects people. I do still believe that we should certainly concentrate more and more on education, along with everything else we're trying to do. And you have to start at the lower grades, and right on through high school, and educate the parents and everyone else that...what meth will do, from that first hit of it, or whatever they call your first time you take it. But the only thing is, there are a couple...there have been a couple of bills on...I mean, laws on the books since 19...since 2001. One was a retailer education program, the State...the Nebraska State Patrol. That was statute 28-453. Nebraska State Patrol may develop and maintain a program to inform retailers about illicit methamphetamine production, distribution, and use in Nebraska,

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

and devise procedures and forms for retailers to use in reporting to the Patrol suspicious purchase, thefts, or other transactions, et cetera, as far as containing ephedrine, pseudoephedrine, phenylpropanolamine, or something like that, or ephedra. And it would be voluntary, and retailers would be immune from civil liability. Now, that's been on the books. Another one was the Methamphetamine Awareness and Education Fund; created; use; investment. And this...that fund was created, and...but there's no money in that fund. And that is for education. So there has been some work on this in the past, but nothing has ever been done with it. I do believe we do have to...we have to get very, very serious about what we're doing. The only thing is, how much of a burden do we have to put on our retailers for selling a legal product? And I'm not talking about that with the powder in it, and so forth. I'm talking about those common ones, Excedrin, et cetera, with the capsules. I guess it...you can make methamphetamine out of those, but I guess it's very, very, very difficult. But I do believe that we have to spend more and more, more time and money on education. And I understand the bill in Oklahoma, one...and I think later on we'll probably hear more about that on Select File, is the...in Oklahoma, that if someone is caught manufacturing the drug and they're arrested for that, there is no bail. And I think that has been very effective down there. And I don't know what that would do with our laws and our penalties. But like I think Senator Stuthman just said, they're bailed out and they're back in the motel rooms and they're making meth again. So whatever we do, let's get at the persons who are selling it. And as far as enforcement, like I say, 80 percent or more of that is imported. But again, as long as there's a demand, there will always be a supply. So with that, I'd return the rest of my time to the Chair. Thank you.

SENATOR CUDABACK: Thank you, Senator Engel. Senator Friend, on AM1181.

SENATOR FRIEND: Thank you, Mr. President. Members of the Legislature, one of the consistent themes over the last, I guess, week and a half of this debate has been, wow, look, there's a Legislature that thinks it's doing something, but it's not. Just wait. Just wait, because everything is going to blow

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LP 117

up in your face and you're going to be back here dealing with it again. I've said on a couple of occasions, I think others have mentioned, we don't know that for sure. We have no concrete proof that something like this underlying bill, let alone the amendment, would actually make a difference. We do things like that all the time as a legislative body. We do it all over the country in individual legislative bodies. Federal government does it all the time. A lot of this stuff is experimental. I will chalk this up to a little bit of experimental legislation. Not willing to go out and say that it's not going to work. How do we know that? Conflicting information out there. I'm willing to err on the side of some inconvenience. What I would say is, AM1181, probably not necessary, because I think we found the happy medium with the committee amendment. But part of the problems that we're dealing with...Senator Stuthman raised some legitimate points. We're looking for solutions. Let's say we had a bunch of these problems out there, and we had to quickly deal with them. Here's some analogous examples. Say we found out at a certain period in time that airplane glue provided just an absolutely tremendous high. What would this Legislature, or any other Legislature, do about that? If it was killing children trying to build...no, I don't think anybody builds models anymore. But if it was, we would regulate it. I'm not a huge regulation type of guy. But this body, like I had mentioned before, like many other bodies of this nature, are reactionary. But then we take deliberation into the cause. We would regulate it. We'd say, airplane glue is killing kids, or, there's an ingredient in airplane glue, when that kid puts it up to his nose, that's hurting him or her. We would take action, or we'd try. And then we'd analyze that action after we were done. Prune juice. What if we found out there's an ingredient in prune juice that created a tremendous high, but it actually hurt people, it killed people. Now, we know Senator Chambers needs prune juice, so it's important to him right now at his point in his career. But guess what? If it hurt him or hurt anybody else that went for a massive intake of prune juice every day, we would regulate it. That's what we'd do. Am I happy about it? I throw my hands up and said, you know, less government, less government. We can pound it off of that wall, and it will come back and hit us in the forehead. We can do that all day long. But we do it all day long. We regulate all

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

day long. We just have to pick and choose what's right to regulate and what's wrong to regulate. And then we get together as a body and say, guess what, we can get those hard-core right-wingers like Mike Friend and Phil Erd...well, we can get those hard-core right-wingers,...

SENATOR CUDABACK: One minute.

SENATOR FRIEND: ...and we can bring them into this type of regulation and we can deal with it. We can save lives with this. If I didn't believe that, I'd be running in an opposite direction, just like Senator Chambers and anybody else that's running in an opposite direction here. I would run. But I think we can, because I think we have statistics that back that up. And nobody has refuted any of those statistics yet. We've wailed and we've bounced the stuff off the walls, but we haven't refuted it. I haven't heard it. Is prune juice next? Let Senator Chambers speak to it. I don't know. What's next? Something is going to be next, and we'll deal with it. Right now, it's pseudoephedrine, and right now, it's an active ingredient in creating meth labs in this state and any other state. We can make a...

SENATOR CUDABACK: Time.

SENATOR FRIEND: Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Friend. Before we go on, I think it's only right to recognize our Assistant Clerk's birthday, Dick Brown up here. So let's congratulate him on his birthday. (Applause) That gives an excuse to thank the Clerk's Office for doing such a great job in keeping us in line. We all appreciate it. On with discussion. Seeing no lights on, Senator Beutler...is Senator Beutler on the...Senator Beutler, you're recognized to close on AM1181.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, you will recall that on the first stage of debate I indicated to you that I had agreed with Senator Bourne with respect to the two amendments that I'd filed, that General File would be an exploratory time, for me, anyway, to get our bearings on how we

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

felt about the bill and how we felt about the alterations to the bill that would be represented by the two amendments. The first amendment I have withdrawn, and this one I will also withdraw. But having had a long and serious debate on this matter, let me say that I don't withdraw it believing it not to be the right thing to do. I'm more or less where Senator Chambers is on this bill, in the sense that it represents a small step forward. Senator Chambers might say it does nothing at all. Certainly, when the penalty is only an infraction on the one hand, and for the seller, only a \$50 fine,...one of the principal reasons that you have fines and penalties...nothing is going to happen, because we've made everything so small. So if you leave the...I wouldn't leave the bill the way it is. If you can't make more of it, then it seems to me like we're inconveniencing consumers in the ways that Senator Chambers has described, and we're inconveniencing businesses in ways...some ways that haven't even been described on the floor yet. And sometimes we're inconveniencing both of them at the same time. When you put something like a product behind the shelf...behind the counter, it inconveniences the consumer who can't find it, it inconveniences the pharmacy who has to make time to go back and get it for somebody, it inconveniences manufacturers, and more than inconveniences, represents a distinctive competitive disadvantage if they're competing with a product that's in front of the shelf. So if you're going to have all these consequences, then it seems to me that either you have no bill at all, because it's just not worth the balance...the cost when you balance everything, or you move ahead and try to have something that's really effective in terms of an information system. In Oklahoma, they have the law. Their Bureau of Narcotics says down there, and I want to read this again: Woodward attributed the effect of the law there largely to the requirement that pseudoephedrine buyers sign the logbooks. There is no sense passing an anti-meth law aimed at reducing in-state production on the drug, he said, without a logbook requirement that mandates retailers track purchases, and gives law enforcement a record of buys. That wisdom, which seems commonsensical to me, is also the wisdom that's being...that has been adopted in Iowa, Kansas, Missouri, and Oklahoma. They all have logbooks. Now, there has been some discussion about a hand log. There has been some discussion about a central database.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

And I thought Senator Brown brought up a very exciting idea, the possibility of a swipe system, an electronic...a direct electronic transfer of the information to a central database, where sales could be compared in a real time basis. You know, I suspect we're not thinking big enough here, and we're neither fish nor fowl. We don't have a truly...

SENATOR CUDABACK: One minute.

SENATOR BEUTLER: ...effective bill. But we haven't moved ahead, either. And so I'm hoping, by Select File, and with some discussion, that there can be a definite program for the future which identifies some kind of electronic system that minimizes the burden on retailers, minimizes the burden on manufacturers, minimizes the burden on consumers, and yet gets effective information to law enforcement, in a way that a modern society can do these days. We just need to make use of what technologies can do, and get the job done. So with that, Senator Cudaback, I would withdraw this amendment.

SENATOR CUDABACK: AM1181 is withdrawn. Mr. Clerk, anything else on FA192?

ASSISTANT CLERK: Mr. President, there is nothing further pending to that floor amendment.

SENATOR CUDABACK: Back to discussion of FA192 itself. Seeing no lights on, Senator Bourne, you're recognized to close on that portion of the divided committee amendment.

SENATOR BOURNE: Thank you, Mr. President. Recognizing that my time is running, I'd like to ask for a call of the house, please.

SENATOR CUDABACK: There's been a request for a call of the house. All in favor vote aye; those opposed, nay. Record please, Mr. Clerk.

ASSISTANT CLERK: 15 ayes, 0 nays to go under call, Mr. President.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

SENATOR CUDABACK: The house is under call. Unauthorized personnel please leave the floor. Unexcused senators report to the Chamber. The house is under call. The house is under call. All unexcused senators please report to the Chamber. Your time is running, Senator Bourne. If you wish to start opening, you...closing, you can.

SENATOR BOURNE: Thank you, Mr. President. I think I'll wait just a minute, while people file in.

SENATOR CUDABACK: Senator Schimek, Senator Stuhr, Senator Janssen, Senator Brown, Senator Raikes, Senator Baker, Senator Mines, would you check in, please. Thank you. Senator Synowiecki. Senator Stuhr. Senator Schimek, the house is under call.

SENATOR BOURNE: Mr. President, if it's okay with you, I'll go ahead with my closing.

SENATOR CUDABACK: You may.

SENATOR BOURNE: This is the...I think the fifth component of the divided committee amendment that simply says that a customer purchasing an ephedrine- or pseudoephedrine-based product has to display an operator's license or a state ID card as proof of identification when they purchase the drug. And with that, I'd ask for your adoption of this component of the committee amendment. And a board vote is fine, Mr. President.

SENATOR CUDABACK: Thank you, Senator Bourne. We're still looking for Senator Kremer, Senator Schimek,...

SENATOR BOURNE: We can go ahead and...

SENATOR CUDABACK: ...Senator Synowiecki.

SENATOR BOURNE: ...proceed, Mr. President.

SENATOR CUDABACK: Senator Bourne said we may proceed. The question before the body is adoption of the fifth component of the divided committee amendments to LB 117. All in favor vote

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

aye; those opposed, nay. Have you all voted on the question who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: 39 ayes, 1 nay on the adoption of that portion of the committee amendment, Mr. President.

SENATOR CUDABACK: FA192, the fifth component of the divided committee amendments, has been adopted. I do raise the call. Mr. Clerk, FA193. (Legislative Journal page 1358.) Senator Bourne, to open on the sixth component of the divided committee amendments.

SENATOR BOURNE: Thank you, Mr. President, members. This is the sixth component, FA193, which states that pseudoephedrine-based products, both liquid and starch base, must be stored behind a counter in an area not accessible to customers or in a locked case so that a customer needs assistance from an employee to access the drug product. Other states have adopted this particular language requiring the product to be behind a counter or otherwise inaccessible to customers, and they've seen a dramatic decrease in the amount of pseudoephedrine-based product that is actually stolen from these stores. And the thought is that this drug is sometimes stolen by the methamphetamine cookers and used to make meth. So it's a logical extension of what we're trying to do. I would be happy to answer any questions and would urge its adoption. Thank you.

SENATOR CUDABACK: Thank you, Senator Bourne. You've heard the opening on the sixth portion of the divided committee amendments. Senator Chambers, for discussion.

SENATOR CHAMBERS: Now, Mr. President and members of the Legislature, we're into the antitheft business. We want to save the retailers from themselves. That's being a bit sarcastic. What Senator Bourne and the other people who support this bill think that they're doing is making the obtaining of this drug so onerous and difficult that a desperado is going to be deterred from obtaining it. I have not heard of a single case in this state of one of these crazy, wild-eyed, drug, what...drug fiend, dope fiends--that's what marijuana smokers used to be when I was little, dope fiends. When one of these wild-eyed, out of his or

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

her head dope fiends comes into the store, what might happen now? Who knows? But nobody has been able to point out an example of a robbery taking place in a store where the only thing taken was Sudafed or one of these pseudoephedrine products. That has not happened. You make a thing increase in value when you reduce the supply. Gold is considered worth more than sand because sand is everywhere and gold is not. Gasoline is starting to be stolen, not by drive-by people, but drive-away people. Why? Because the price has risen. I didn't say Christ has risen, whoever made that comment, I said the price has risen. Why has the price risen? Greedy big oil, but there's another reason that the economists tell us about. The supply is lesser than it used to be vis-a-vis the demand. So when a thing becomes dear, meaning there is less of it or it is more rare, the value increases. So the price of gasoline is higher because crude oil is in lesser supply and crude oil is that from which gasoline is refined. Sudafed has been readily available. Nobody has wanted to or needed to risk going to jail to commit a robbery to get Sudafed. If it becomes more difficult, will these desperadoes try to take this stuff without paying for it? I don't know. But if you make the price right, somebody will. I've heard it said on this floor so many times when an issue is before us that if one person's life is saved, that justifies whatever it is we're doing. If one person's life is lost, is that enough of an argument against doing this? Suppose some clerk is shot. What will people say? Well, that's the cost of fighting meth. Well, maybe it wasn't your child. Maybe it wasn't your spouse. Maybe it wasn't somebody you knew so that's the cost of fighting meth. But if it comes into your household, you suddenly want everybody to be concerned, everybody to go into mourning,...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...everybody to express regret and sympathy. We, as policymakers, need to look at these kinds of things and consider what the fallout might be. Putting it behind the counter is one of the lesser inconveniences. But once again, what is it for? I heard one of my colleagues talk again about 80 percent coming in and they're fighting 20 percent. The State Patrol has already told you less than 20 percent is manufactured

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

here. But it shows how when you drill something into the head of a nonthinker, the nonthinker by rote says it again and again and again. In Chaucer's Canterbury Tales there is a couplet: He like the parrot was really quite dense. He remembered the words but he didn't get the sense. So like the parrot, Polly wants a cracker, Polly wants a cracker, because that's what Polly heard.

SENATOR CUDABACK: Time, Senator.

SENATOR CHAMBERS: Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Stuthman, followed by Senator Flood and Senator Chambers.

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. In some of the media reports and information that's on the radio, we are hearing that retail outlets are putting it behind the counter before this law is even in effect. Why would they ever want to do that? Do they see that it is a problem? Yes, I think so. Do they have a problem with it being stolen, taken out? Is that a major problem? I do not know, but I did visit with someone or heard it from someone that said that, you know, they went to buy some, the boxes were empty, so it was taken out of the boxes. And I think this is a major problem. I think the retailers are, you know, are aware and are concerned about this because they see the effects of what it does to people. I am also aware that if innocent individuals that get convinced in trying it once as a feel-good for them, for depression, or just something that happened in their life and then they're addicted and they can't get off of it. There are many people that want to get off of it, that want to go to treatment. There are parents of children, of youth, teenagers and of older people. The parents have law enforcement pick them up and put them in jail so that they can get away from it, try to get them into treatment programs because they cannot help themselves. Those are the things that really concern me, you know. People that get addicted to it once finally see the light, but that light is so dim because the light is so bright in their brain that wants them to continue on the meth highs and they can't get over it. They always go back to it. That is a

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

permanent scar in their mind from the first day that they took meth. And that is the real concern of mine. But also I am aware, you know, that retailers and outlets are trying to help us with this problem. You know, let's work together. Let's come to a solution. Let's accomplish something. This is only a small step in a big road to try to accomplish and get rid of meth. We will never get rid of it. But if we can keep it away from the majority of the people, I think we have accomplished something. Thank you and I'll give the balance of my time back to the Chair.

SENATOR CUDABACK: Thank you, Senator Stuthman. Senator Flood.

SENATOR FLOOD: Thank you, Mr. President, members. I just want to reiterate my support for this amendment and for the bill in general. I think Senator Bourne has worked very hard to put together a package here that makes sense when we look at both sides of the meth problem, and there are two sides. There's a supply side and a demand side just like in economics. And this bill does a lot on the supply side. Senator Chambers has made much about the 80-20 split, 80 percent of the meth coming from southwest United States or possibly Mexico, where 20 percent of the meth is manufactured within our borders. And whether or not those numbers are accurate I guess depends on your vantage point. But I guess more concerning for me is the fact that law enforcement isn't allocating its time 80 percent to the meth coming from the southwestern United States and 20 percent to the meth that's made here in Nebraska. I would argue that Nebraska law enforcement spends the majority of its time on these meth labs. You got a meth lab on your street, you need the fire department, you need law enforcement, you need investigators, the clandestine lab team, \$9,000 to \$25,000 to clean one of these labs up depending on where you're at and what kind of resources you have, call in some team from Kansas City to clean it up, interview the neighbors. It's not your normal drug bust and it's taking the time of law enforcement to get the job done. So my argument would be making this stuff harder to get will give law enforcement more time to continue to enforce the laws that deal with the meth that's coming into the state of Nebraska. And that's where we should focus our efforts after we reduce even further the number of meth labs we have, especially

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

in this time that we find ourselves fighting for funding to fund clandestine lab teams and multiagency law enforcement groups that go in and buy drugs and use those buys to generate arrests and probable cause. We're running out of funding there. We don't have the money to clean up these meth labs. Let's focus our resources on things that will help us in the end combat the supply side of the methamphetamine problem. Senator Stuthman has talked a lot about treatment. I think that's important. But I think this bill is primarily focused on the supply side and making sure that these drugs, those drugs being Sudafed, over-the-counter cold medicines, are behind the counter is a logical step in a series of steps to reduce the number of meth labs in Nebraska and focus law enforcement's efforts in other directions toward the meth problem. Thank you and I return the balance of my time.

SENATOR CUDABACK: Thank you, Senator. Senator Chambers, followed by Senator Janssen.

SENATOR CHAMBERS: Mr. President, I'll say again this is one of the more innocuous aspects of the bill. As Senator Stuthman pointed out, there are some retailers doing this anyway and some had been doing it before all of this craze of enacting these bills had come into play. I don't know what person it was who drafted the first one of these so-called antimeth bills, but it was readily sucked up and swallowed because everybody is desperate to do something. That's the difference between me and most of the people on this floor. I don't just say anything is better than nothing. That is not always the case. Sometimes it is good to take all the time needed to evaluate the problem. The Legislature never undertook an independent study or determination of what the problem of meth is in this state. I don't mean the mere fact that people are using it. And it is of importance, contrary to what my young friend, Senator Flood, suggested as to the amount of meth coming into this state from outside and the amount being manufactured herein. We keep hearing from law enforcement, and I've said I'm distrustful of them, that they're spending all of this time on these labs and they cannot give time to 90 percent of this terrible substance coming in. That is positively insane and I don't accept it as the truth. You all are so naive. That's why these cops feed

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

anything to you and you swallow it because a cop told you. If a cop came in here and told you he's all out of breath and he's sweaty, the pod people are coming, the pod people are coming, you all would start running and not even know what he's talking about because he'd been running. So then when you settle down and ask him, well, who are the pod people? Well, there's a movie called The Body Snatchers and if you go to sleep and they put one of these pods by you, that pod takes over you and you become a pod person. And a cop told you so you accept it. When they get reports at various locations of a UFO, if a cop, whether it's a city police, a sheriff, or a marshal, said that he saw something in the sky that qualifies as an unidentified flying object, everybody jumps under the bed because a cop said it. Cops are as nutty as anybody else. Cops commit crimes just like anybody else. Do cops become crooks after they get on the force, or are they crooks who get on the force? They have a terrible scandal in New York right now because two of their most decorated detectives were doing contracts for the Mafia, killing people. And people say, well, a cop did it--that shouldn't surprise you. So when these cops who are not sociologists, they are not psychologists, they are not lawmakers, they are donut eaters, come running to tell you, this is the way to solve the problem, you know what I would say to calm them down? We're going to have the Legislature put on a donut convention. Then that would get them out of our hair long enough for us to make some judgments like rational, responsible law enforcement people, lawmakers, ought to do. We're running to put this stuff into the law and it's not going to touch the problem. But the cops told you it would so here's Senator Flood, 80-20. It's not 80-20. The State Patrol told you that. Accept the cops on that one. But you know why he can't? Legislators' brains get wired a certain way and they can't rewire it. So they say 80-20, 80-20 and it's not 80-20. They say that to minimize the seriousness of the amount of methamphetamine...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...being imported into this state. So if they stop looking for the labs, how do they look for the labs? They get one of those hats, Senator Flood, that has a bill in the front and a bill in the back, one hanging down and one

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

hanging down in the back and they get a magnifying glass and they get a checkered coat and some big ol' walking boots like the kind I wear and go looking on the ground. What are you looking for? I'm looking for a meth lab. They may as well do that. They don't find any ever unless there's an accident. I'll tell you what they ought to do, what they're good at--hire some snitches and pay the snitches. Let the snitches tell you where this stuff is because the snitches know, and they will accept the money, and they will rat out each other in the same way that Warren Buffet ratted out his friend with AIG in order to get some of the heat off Berkshire. A snitch is a snitch is a snitch.

SENATOR CUDABACK: Time, Senator. Thank you, Senator Chambers. Senator Janssen.

SENATOR JANSSEN: Thank you, Senator Cudaback, members of the Legislature. Now if you, if most of you think that retailers are bad people for selling these products, you know, we're aware of the situation. We're aware of the problem that meth is to this state and this country and the youth of our state, not only the youth that I'm thinking about, it's the older people, the older people that take these products for medicinal purposes. And I would say that the products that are purchased in a small store like mine are for legitimate purposes. You know, they'll buy one or two boxes at a time. I don't know how much of this junk it takes to make a few grams of this stuff that looks like ice crystals or moth balls, probably get the same effect out of moth balls. And I...and Dr. Johnson can probably relate to this, these cold tablets that contain the ephedrine, they're not going to cure your cold or your flu or whatever you have. They make you feel better. The old saying about if you have a cold, why, if you go to the doctor you'll get over it in seven days. If you don't go to the doctor or don't take anything, you'll get over it in a week. But it does make you feel better. Grocers are, and retailers in general, are very adaptable to all situations. Right now we have several different products. I looked over the weekend at what we do have in our small store. It's a four-foot section of all types of cold tablets and I looked at the ingredients and I would say 99 percent of them have some part of ephedrine in that formula. So but now and,

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

you know, for our own sake also, you know, we are going to lock them up. We looked at...a manager and I looked at a section behind the counter that we're going to be able to put these products behind a locked door. Well, it's not foolproof. If someone really wanted to come in and clean you out, they'd probably break in and bust that glass door and take what you had, and I think that's the situation you're going to have. You're going to have...because it takes more than what you can stuff in your purse to make a batch of methamphetamine. And if we lock them up...so we are going to have to limit the number of products, different products that we have. So I just want you to be aware of some of the situations that are going to happen with this amendment. We need to do this. You know, I guess we do, and I'm willing to work with the body on getting some type of legislation that is reasonable and that the merchants in this state can adapt to and make it easier for our customers. We will look at a few things in the next round of debate which I think needs to be done. With that, I am listening to the debate as carefully and as objectively as I can. I know it's a problem, but I do believe that Senator Chambers, some of the comments he's making about what's happening with people coming in from out of state and setting up these labs is probably true.

SENATOR CUDABACK: One minute.

SENATOR JANSSEN: I mean if you're going to need a larger amount of this stuff to make your meth labs, you know, it's not going to be from purchasing it. It's going to be by theft. Thank you for your time.

SENATOR CUDABACK: Thank you, Senator Janssen. Senator Chambers. This will be your third time, Senator.

SENATOR CHAMBERS: Yes, Mr. President. And I'm going to keep battering this bill, saying basically the same thing over and over like water which is a continual dropping. I use the example of the Colorado River and the Grand Canyon as an example of the methodology that has to be used around this place. Few substances are harder than stone, few softer than water. But the constant, continuous flow of water cut the Grand Canyon. That's what they say. Now I'm not aware of anybody having been

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

here at the time that what is now the Grand Canyon was really the banks of a stream running more or less at grade level, but that's what they say by way of explanation. So if I continue to speak against what is being done here, it may have some impact and it may not. Fortunately, there are people outside of this room who can listen to and observe what it is we say and do. Senator Beutler touched on something that I've been trying to underscore. You are definitely doing things to inconvenience and intrude, inconvenience and intrude into the affairs of ordinary people. That is being done, for sure. Nobody knows how many meth labs are in this state. Therefore, nobody knows how much meth is being manufactured in this state. People on this floor who want statistics on motorcycle accidents would not accept what is being accepted here. And with the motorcyclist with or without a helmet, that person is involved. You are not saying in order to make sure that everybody on a motorcycle wears a helmet, everybody walking down the street has to wear one, too. You're not saying that. But in this, the vast majority of people affected are innocent people bothering nobody, doing nothing wrong. They're not even conscious of the government except maybe on April 15. Then here you come, because some cops told you that 80 percent of the meth comes in, 20 percent of it is manufactured. How can they give you those figures when they don't know? How do they know? They don't even know how many labs are here. They don't know how much meth is produced in each lab. So how can they tell you any amount? Senator Stuthman even accepts that. Senator Aguilar accepts it. Everybody on this floor except me accepts it. You don't ask questions about your source of information and how you arrive at a conclusion. You know one of the things that makes science such a wonderful pursuit? A scientist who thinks he or she may have made a discovery keeps in mind the possibility that he or she could be wrong, that he or she could be wrong. So the supposed discovery is submitted to others in that field, the peer group. They evaluate it, they study it, they put it to rigorous tests because the goal is not to make this one who claimed to have made a discovery turn out to be correct. It's to find out if it truly is a discovery; and if so, is it the type of discovery represented by the one who supposedly made it? Hoaxes have been worked on the scientific community before, but nevertheless, if the rigorous...

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...scientific process is applied, there is less likelihood. All you got to do in the Legislature is run in here and say 80 percent do this, 20 percent do that and that's all you hear. And nobody asks, who developed those statistics and how? The cops. Well, how did the cops do it? Well, they know. How do they know? I don't know. They say they do so you accept it. And then you build the program and you establish a policy based on something which nobody knows or can establish to be true. It is pathetic. It is pitiful. It is typical of the Nebraska Legislature. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Aguilar.

SENATOR AGUILAR: Thank you, Mr. President. Senator Chambers said we should ask questions. I'd ask this question. Does meth kill? The answer, of course, yes, it does. Second question, can this legislation cut down on the number of meth labs in the state of Nebraska, thus saving lives? Yes, it can. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Aguilar. Any further discussion? Seeing no lights on, Senator Bourne, I'll recognize you to close on FA193.

SENATOR BOURNE: Thank you, Mr. President, members. This, again, this divided committee amendment is...it requires that a pseudoephedrine-based product has to be stored behind a counter or in a locked area, a locked case so as not to be accessible to the customer. And with that, Mr. President, I would ask for a call of the house. Thank you.

SENATOR CUDABACK: There's been a request for a call of the house. All in favor of the house going under call vote aye; those opposed, nay. Record please, Mr. Clerk.

ASSISTANT CLERK: 18 ayes, 0 nays to go under call, Mr. President.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

SENATOR CUDABACK: The house is under call. All unauthorized personnel please leave the floor, unexcused senators report to the Chamber. The house is under call. Members, please check in. Senator Bourne, for what...what did you...

SENATOR BOURNE: We can go ahead and proceed.

SENATOR CUDABACK: Okay. Thank you, Senator Bourne. The house is under call but Senator Bourne says we may proceed. Machine vote has been requested. The question before the body is adoption of the sixth component of the divided committee amendments, FA193. All in favor vote aye; opposed, nay. Have you all voted on the question before the body who wish to? Record please, Mr. Clerk.

ASSISTANT CLERK: 39 ayes, 0 nays on the adoption of the amendment, Mr. President.

SENATOR CUDABACK: The motion was successful. FA193 has been adopted. Mr. Clerk, the final component.

ASSISTANT CLERK: Next amendment is FA194, Mr. President. (Legislative Journal page 1359.)

SENATOR CUDABACK: I do raise the call. Senator Bourne, you're recognized to open on FA194.

SENATOR BOURNE: Thank you, Mr. President, members. And this is the last division of the committee amendment which applies to the purchaser of a pseudoephedrine-based product. And it states that "No person shall, by retail, purchase, receive, or otherwise acquire any drug product containing more than one thousand four hundred forty milligrams of pseudoephedrine base or one thousand four hundred forty milligrams of phenylpropanolamine base during a twenty-four-hour period unless purchased pursuant to a medical order." And that's a prescription. And I know Senator Burling had asked that question earlier. Any person who violates this section is guilty of an infraction. And I had outlined those penalties for Senator Chambers earlier. With that, this is the last division

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

and I'd appreciate your adoption of this component. Thank you.

SENATOR CUDABACK: Thank you, Senator Bourne. You've heard the opening on FA194. Open for discussion on that portion of the divided committee amendments. Senator Chambers.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I missed something on the last amendment and usually I don't do that. But because it was one that I am not opposed to, I did not really examine it. But there's no definition of what a counter is. A counter could be an individual who counts and that's true. When people are...there are elections, that's what a counter is. Since there's no definition and you're talking about a law that can carry criminal penalties, it's going to be strictly construed. It will not apply any further than the ordinary meaning of the word. And if the meaning is ambiguous or raises a question, then the construction benefits the one who is accused. But I will forget that because I missed that one and go to this one. No person shall, by retail, purchase, receive, or otherwise acquire any drug product containing more than one thousand four hundred forty milligrams, whatever those are, of pseudoephedrine base, whatever that is, or one thousand four hundred forty milligrams of pseudoephedrine...no, phenylpropanolamine base during a twenty-four-hour period. But that phenylpropanolamine is no longer on the market. It's no longer there but it's in the statute, and Senator Bourne explained the other day why. I pay attention. Others don't. If that was somebody's name and they came from another country, Americans wouldn't take the time to sound it out. They'd say, hmmm, I think I'll call you Phil. That's the way Americans do. More than three syllables and the brain collapses, thought goes into remission and that's what I have to contend with. But listen at this. No person shall, by retail, purchase, receive, or otherwise acquire. The thing we're looking at is retail purchase. Somebody might say, but then there's the "or otherwise acquire" which takes care of it. I don't read it that way. The language can be read different ways. But it's clear what the purpose is. It's to stop the person from buying this substance. But before I go too far, let me ask Senator Bourne a question,...

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

SENATOR CUDABACK: Senator Bourne, would you...

SENATOR CHAMBERS: ...strictly for clarification.

SENATOR CUDABACK: ...yield?

SENATOR BOURNE: Certainly.

SENATOR CHAMBERS: Senator Bourne, in line 8 are the words "or otherwise acquire." Do those words mean other than by retail purchase? Is that the intent?

SENATOR BOURNE: Well, it could be that, Senator Chambers, or it actually could...I would interpret it to say it could be a theft.

SENATOR CHAMBERS: It could be what?

SENATOR BOURNE: It could be a theft.

SENATOR CHAMBERS: A theft.

SENATOR BOURNE: Acquiring.

SENATOR CHAMBERS: So then you get charged with a theft plus having stolen more than this amount or if you steal less than this amount it is not a crime. And I'm not being facetious, by the way; it might sound like it.

SENATOR BOURNE: Well, again, Senator Chambers, I have looked over this a number of times, and I really hadn't considered, I mean, what you're saying there. I mean "otherwise acquire," how else would you, other than purchasing or receiving, how else would you otherwise acquire it? I would say that theft could be included in that.

SENATOR CHAMBERS: But when they say "by retail, purchase,..."

SENATOR SCHIMEK PRESIDING

SENATOR SCHIMEK: One minute.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

SENATOR CHAMBERS: ...receive," you receive it by retail purchase.

SENATOR BOURNE: By retail, purchase, receive, or otherwise acquire any drug product containing more than 1440 milligrams.

SENATOR CHAMBERS: So the intent is to break each one of those into a different method by which a person comes into possession of this substance.

SENATOR BOURNE: Right.

SENATOR CHAMBERS: Okay.

SENATOR BOURNE: I mean, the overarching intent is to stop people from getting the main ingredient of methamphetamine.

SENATOR CHAMBERS: So if somebody gives it to this person, that is illegal, an illegal acceptance of it if it's more than this particular amount.

SENATOR BOURNE: You...yes, that could be true. Otherwise acquire would...any other way of acquiring it or getting it other than by purchase or receiving.

SENATOR CHAMBERS: But it has to be more than this amount within a 24-hour period, so if you have a stash and you give me only this amount during each 24-hour period, neither of us has committed a crime. Is that true?

SENATOR SCHIMEK: Time.

SENATOR BOURNE: That's how...yes.

SENATOR CHAMBERS: Thank you, Madam President. Thank you, Senator Bourne.

SENATOR SCHIMEK: Thank you, Senator Chambers and Bourne. Senator Stuthman, it's your turn to speak.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

SENATOR STUTHMAN: Thank you, Madam President and members of the body. First of all, I want to thank Senator Aguilar on his comments before. I, you know, echo those comments also. We've been discussing about statistics, 80 percent, 20 percent, 90 percent, 10 percent, 20 percent, 80 percent. To me all of those figures are immaterial. You can put any type of figures out there you want to. But I think the issue that we're dealing with is what happens and what occurs to the brain when people use methamphetamine. It alters their brain. That's the issue. That's the concern of mine. The people that get addicted to it, that are offered this for the first time and get on it, they cannot help themselves. But their mind continually tells them the high that they get next time is going to be better than the last time and they never reach that goal. But they continue to strive to get there. So immaterial in my opinion of the figures and the facts that we're utilizing. The main issue is what it's doing to our people. And I think we need to really seriously concentrate on that. If we let this continue as it has, you know, in the last several years, these people are going to be on treatment. People that are on treatment, are they an asset to the community or are they a liability to the state of Nebraska? In my opinion, that group of people are going to be a liability to the state of Nebraska. Why do I say that? They're going to be in the treatment program. They're not going to have the jobs. They're going to be concentrating on the treatment, and that is a cost to every one of the taxpayers. So immaterial of what the amount of time is being spent on it, let's deal with what the effects of meth are and should we be controlling that. In my opinion, yes. In my opinion, LB 117 is just a small step to accomplish that. Thank you and I give the balance of my time back to the Chair.

SENATOR SCHIMEK: Thank you, Senator Stuthman. Senator Chambers, your light is next.

SENATOR CHAMBERS: Thank you, Madam President, members of the Legislature, and for my colleagues, it's not ours to give time or to take time. Time marches on no matter what we do or don't do. We can pass it, we can spend it, but we can't give it back. We cannot stop it. Now that I've said that, I've watched Senator Stuthman as he talks. I'm not going to wear a white

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

shirt and a necktie or a white shirt without a necktie, but I got to get me a suit coat because I think it's very impressive and you look far more believable when you stand with one hand in your suit coat pocket and that flap at the bottom is draped over your hand. But when you don't wear anything but a sweatshirt like I am and I put my hand in my pocket, I'm just a guy in a sweatshirt with his hand in his pocket. But if you've got a suit, next time Senator Stuthman talks, watch him. That's how I learn so much about my colleagues. That's how I learn so much about what impresses people. It might even be sub rosa. They may not even be conscious of what it is that is impressing them and infecting or affecting their judgment about their reaction to a person they don't even know. But they look and there are certain things they see. Senator Stuthman knows something about human psychology or he's just a natural. He just knows the thing to do to make people pay attention. Senator Aguilar, on the other hand, there he is, asks two questions. Then as though something profound has happened, he just sits down. That's effective when you're dealing with children in a Sunday school class. You ask a question, give an answer, and then just stop everything. The kids say, ooh, that's deep. And then they ask each other afterward, well, what did it mean? I don't know. He must have meant something. Okay, so here we go. I'm going to see if I'm as impressive. Does poison kill? Yes. If you keep poison out of the hands of children, will you save lives? Yes. Well, that reminds me. I'm getting in the spirit of how this discussion is going because you're not going to listen to anything. You're going to pass this bad bill. There were these old convicts, and they'd give a number. One guy would say, 37, and everybody just fell out laughing. So this young guy asked, what's going on here? And he was told that all of the jokes that had ever been told had been assigned a number. So this young guy said, well, 16. And people looked at him like he was crazy. An old guy said, 16, and everybody almost died from laughter. So the young guy asked, why do they react one way when you say 16, react a different way when I say 16? The answer was, as you all know, some people can tell a joke and some cannot. That's something. Some joke writer wrote that. And if he told it in one of these environments where you have stand-up comics and everybody is drunk and silly, they'd be laughing now about that. Unfortunately, brothers and sisters,

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

the same mentality sometimes seeps into this Chamber. And when we're dealing with a serious matter such as this, people will think fuzzy thoughts. Not what it is we're doing, but what is the scourge we're addressing, and the public expects the Legislature to do something. Oklahoma did this, Iowa did it. Why did Iowa do it? Because Oklahoma did it. Why did they do it? Because Arkansas did it. Nobody has come up with any conclusive or compelling proof that these bills do anything. They will tell you that the cops said, when a bill like this was enacted, the amount of meth being produced domestically went down. How do they know that when they didn't know how much was being produced? Well, they just believe...

SENATOR SCHIMEK: One minute.

SENATOR CHAMBERS: ...that if you do this, it has to do something. You did it, therefore something has to have been done. That's not even logic. It makes no sense. But I've been in this Legislature a long time, and logic seldom prevails. But I'm not going to be swept away by all this foolishness. This bill is not going to accomplish anything. And it's not because it doesn't have harsh penalties. It's not because it lacks a logbook. It's not because it wants to treat innocent people as though they are criminals. It's because you're approaching a problem in a way that is not going to solve it. That's why. An example would be these bacterial soaps that you use. They are effective to some extent against certain bacteria, but mainly the helpful ones, but they have no impact whatsoever on viruses. So people, because they don't understand, think when they use this bacterial soap they're fighting viruses,...

SENATOR SCHIMEK: Time.

SENATOR CHAMBERS: ...and they're not. Was that my third time, Madam President, on this one?

SENATOR SCHIMEK: I believe that's your second time,...

SENATOR CHAMBERS: Thank you.

SENATOR SCHIMEK: ...Senator Chambers. And your light is on,

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

and that will be your third time, Senator Chambers. You are recognized.

SENATOR CHAMBERS: Thank you. Madam President, members of the Legislature, if I gave you a sieve and I said, I want you to go dip some water out of the bathtub and I want you to dip that water out of that bathtub into this bucket, and every time the bucket is filled, I want you to empty it, and you keep doing that until the bathtub is filled; well, you'd dip the sieve into the water, but by the time you cleared the surface of the water, all the water in the sieve ran out. That's what you're doing. You've got a sieve. But because you're expending energy, because you're engaged in activity, you convince yourself that you're doing something useful, and you're not. You're not getting anywhere. The level of water in the tub remains the same. You can give 30 people a sieve, and after they've all worked until they're exhausted, the water level in the tub has not receded an inch. But everybody is exhausted, so they say, we sure did some good work there. It should be productive work. It can be considered productive if it moves you closer to achieving what your purpose is. If your purpose is to reduce the amount of water in the tub, and you haven't, your work is not productive. It made you tired, and that's all. That's why the senators get tired. You all know we're not doing anything of consequence here. If you thought you were fighting meth, you'd be hyper yourselves. You'd be jumping up and down on the tables, because you have figured out how to do something that nobody else has. You're going to fight the scourge. But you're not. You're going to do what everybody else has, you're going to have done nothing, people will get the impression that the panacea is in place, everybody sits back and relaxes, everybody talks about it differently, law enforcement got what they want so they say everything is fine, the former Governor says he got what...the lame duck Governor, pardon me, got what he wants so everything is fine, and the meth rolls right on, and the meth addicts continue to be multiplied. Why do I say the lame duck Governor? We're going to have two men running for Governor, neither of whom has ever been elected for Governor before. You know that Governor Osborne is the next Governor. I know it. I endorse him, Senator Bourne, right here now. (Laughter) He's against the death penalty. He said he was. You know I go for

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

that. These other little men, running around trying to make their career on telling how they are going to make sure the state kills people. Well, Osborne has risen above that. When he first ran for Congress, he said he opposed the death penalty. Now, I don't know if getting in politics has changed his mind. That's a principled, moral position in line with what he says his principles are. All these other little fellows running around, big suits of the Governor, but a little creature inside, thinking they're the Governor. No, Tom Osborne is going to walk tall. He's going to show us what a Governor should be. And you all ought to run out of here and vote for him, too. Now, being completely serious--not that I wasn't serious about that--we should not be those echoes of other states. We should take the time to make sure that what we're doing is achieving what we tell the public it's going to do. I tell you it's not going to touch the meth problem. I tell you all these cops have sold you a bill of goods. They have snookered you. And you won't be able to admit you were wrong. They're not going to say they were wrong. So you're going to pretend that the meth problem is solved. One good thing about that, though, I won't have to worry about one of these silly bills coming again. We won't talk about meth in here anymore. Watch and see. Except that people will run in here and talk about what a great thing LB 117 did, and that's why...

SENATOR SCHIMEK: One minute.

SENATOR CHAMBERS: ...we don't talk about the problem, because LB 117 solved it. All of you know, after the amount of discussion we had, that this bill is not going to solve the problem. You're using the wrong approach. I don't know how to keep giving examples. The examples aren't going to make any difference. Because when the brains have gone on leave, nothing is going to take hold. But at least I won't be lumped together with the rest of my colleagues, who are mindlessly going along, and every time they open their mouth, Oklahoma did this, Iowa did that. Well, Iowa doesn't have a death penalty. Oh, all quiet on the western front now, huh? How I stayed in this Legislature 35 and kept my sanity 35 years, and kept my sanity, that is the amazing thing. Yeah, I do believe now staying here 35 years is something. Being true to my community...

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

SENATOR SCHIMEK: Time.

SENATOR CHAMBERS: ...and true to my principles. And Madam President, only you can shut me up, which you just did. Thank you.

SENATOR SCHIMEK: Thank you, Senator Chambers. We are on discussion of the seventh part of the Judiciary Committee amendment, FA194. Senator Bourne, I don't see any further lights. You would be recognized to close.

SENATOR BOURNE: Thank you, Madam President. I'd ask for a call of the house. I think we've kind of filed out from the discussion. I think people are probably asleep. So if I could get a call of the house, and let my time run, Madam President.

SENATOR SCHIMEK: Thank you, Senator Bourne. There has been a request for a call of the house. Would all members please...oh, all those in favor please vote aye; all those opposed vote nay. Record, Mr. Clerk.

ASSISTANT CLERK: 25 ayes, 0 nays to go under call, Madam President.

SENATOR SCHIMEK: The house is under call. Would all members please return to the Chamber and check in. The house is under call. Would all unauthorized personnel please leave the floor. The house is under call. Senator Byars, Senator Brashear, Senator Engel.

SENATOR BOURNE: Madam President, if it's okay with you, I'll go ahead and proceed with my closing as people file in?

SENATOR SCHIMEK: That would be fine.

SENATOR BOURNE: Okay. Thank you. Members, again, this is the last component of the divided committee amendment that says that no person shall purchase more than 2400 (sic) milligrams of pseudoephedrine-based product within a 24-hour period. It is an infraction. I should say, within a 24-hour period, unless they

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

have a medical order or a medical prescription. But it is an infraction, and there is a penalty for those folks who do purchase or acquire more than 1440 milligrams of pseudoephedrine-based product within a 24-hour period. And with that, Madam President, I think we can proceed. If we just do a machine vote, that would be great. Thank you.

SENATOR SCHIMEK: Are you saying that we can proceed without everybody checked in? Thank you, Senator Bourne. The question is the adoption of FA194. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk.

ASSISTANT CLERK: 39 ayes, 1 nay on the adoption of that portion of the committee amendments.

SENATOR SCHIMEK: The amendment is adopted. Mr. Clerk, are there other amendments?

ASSISTANT CLERK: Madam President, I have nothing further pending.

SENATOR SCHIMEK: The call is raised. There are no other amendments. We're now discussing the motion to advance the bill to Select File. Are there...is there any discussion? Senator Chambers, your light is on. You're recognized.

SENATOR CHAMBERS: (Laugh) Thank you, Madam President. To the surprise of nobody, I'm sure. So now we've come to this. The bill is to be advanced. I'm going to vote against the advancement, but I'm not going to offer any amendments. At this point, we now have the entire committee amendment adopted. And the entire amendment is now open for attack or modification. I'm not going to do any of that on General File. But I've told Senator Bourne that I'm going to take all the time that I need on Select File. And I will, not only on this bill, but on others. But we're going to see if there's jubilation throughout the state when the headlines say tomorrow, LB 117 was advanced, or, crushing blow struck against methamphetamine, exclamation point, about six of them. The cops know better. There are some places where they don't even want to shut down all these meth labs. Why? Because they can do nothing but give the...undergo

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

the pretense of searching for meth labs. If all the meth labs were shut down, they'd have to do some kind of honest work. Now they don't have to. Always they can say, we're fighting meth labs. If the meth labs are gone, where are they going to fight the importation battle? On I-80? Stop every car on I-80? Well, since they say it comes from the southwest part of the country, Senator Aguilar will be talking to me about how they're stopping everybody who looks to a white person like what they call a Hispanic. That's what they'll be doing. That's what they'll have more time to do. Then the public will say, well, those are the people who bring this stuff in here. Well, not all of them. But all of it that comes in is brought by them, those people. Stop them. And then, in Senator Flood's territory, they'll say, we don't mind being inconvenienced. You know why? Because they're not going to be stopping white people. That's why white people say they go for all of this oppressive intrusiveness by the cops. Because their class that they feel they're a part of will not be bothered. Will poor white people be bothered? Certainly they will. To the eyes of all these sophisticated, sadiddy white people, anybody whose clothing is dirty, anybody whose hands are soiled other than from coming out of the toilet in the Legislature or someplace where these important people gather and don't wash their hands, those people are looked at differently. They're the threat. They're the dangerous ones. Is their hair longer than somebody else's? Yeah. Well, you better watch them. Long hair is a dead giveaway. All of these ways of stereotyping people for the purpose of scapegoating. All of the problems that people have in their own homes they can put on somebody out there. These people, those people, are doing it. Yet the ones who kill them in their homes are their children. And there are parents killing their children in their homes. But they give the impression that the streets are unsafe, because every other person you see is going to bother you, so you need to hide a pistol to protect you from these people in the street, when the one most likely to kill you is in your home with you. This is a sick, disturbed, insane society. One of the amendments I'm going to put on that gun bill when we get to it is that the Legislature finds and declares that instead of letting people carry all these pistols because they are...

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

SENATOR SCHIMEK: One minute.

SENATOR CHAMBERS: ...wracked with fear and paranoia, the Legislature recommends that they get counseled, get mental health treatment, complete with the administration of medication, to give some mental equilibrium and emotional stability to their lives. Then they won't be running around here thinking they got to shoot everybody. Then you come to the Legislature, and it's no better. We do not show rational, deliberative thought when we pass bills like this that are not going to solve the problem. How many of you are going to run out of here and speak with great pride of the blow you struck against amphetamines? All you'll do is show people on the street that you don't know anything. You like to talk like you know so much. You don't know what's going on out there. Cops run in here and tell you. They say, we can scare them suckers; we'll tell them anything and they'll swallow it, because they don't know anything. Then they tell you that. You repeat it. Then you...

SENATOR SCHIMEK: Time.

SENATOR CHAMBERS: ...strut around like you are a street person, which you're not.

SENATOR SCHIMEK: Thank you, Senator Chambers. Senator Combs, your light is next.

SENATOR COMBS: Thank you, Madam President and members of the body. I've not spoken on this bill yet, but I did want to speak before we do advance it on. I recently, over the weekend, attended a conference with legislators throughout the United States, which did include legislators from the state of Oklahoma. And one thing that they mentioned to me that was really the meat and teeth of their bill, which I think might address some of what Senator Chambers is concerned about, is a no-bail, no-bond for the meth cooks. And in discussing with Senator Synowiecki, we were talking about, perhaps with the exception of if they want to go into a treatment program. But what is happening is, these meth cooks are getting their bail posted. They got access to loads of dough. And then they

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

immediately go out to a motel room, and they're cooking that very same day that they get out. So I think that's a...I've been talking to some other senators and to Senator Bourne, and it's something that I would like us to consider. I'm not putting the amendment yet on Select File, because I certainly don't want to bring the bill down. But I am mentioning it before we move on, because I think that might be a way to address the issue of who's making this stuff and getting it off the streets. And that's what we all want to do, and I think that's what Senator Chambers has been...his point has been all along. This is the first time I've spoken on this debate, so...on this issue. So I don't know. I'm willing to, you know, to discuss it. But again, I did talk with Oklahoma people, and they said this was part of the real teeth in their meth bill, was the no-bail, no-bond for the meth cooks themselves. I don't think that's such a bad idea. But again, I'm not any professional, by any means. I'm not a law enforcement officer. I'm just, you know, a citizen legislator that said, that sounded like a pretty darn good idea to me. So...and I won't...we won't discuss the gun bill until it comes up. But thank you for revealing one of your wild cards in your poker hand, bud. Thank you. And I would give the rest of my time to Senator Chambers, if he would like to finish what he was saying earlier.

SENATOR SCHIMEK: Thank you, Senator Combs. Senator Chambers, would you like to have the rest of her time?

SENATOR CHAMBERS: Yes. Thank you, Senator Combs. Madam President, members of the Legislature, what I was talking about is the lack of balance in this society. And because people will not come to grips with the true problem, they want to go off on a tangent and pretend that by doing something they're solving the problem. When there was a certain teacher at Westside High, I used to be invited at least once a year, sometimes more. And those kids used to flock around me, and didn't want me to leave. Their homes...their bathrooms are like drugstores. Their parents had so many prescription drugs, of every kind and variety, that they didn't have to go out on the street and buy street drugs. That's why they weren't getting arrested for street drugs; they got everything they wanted at home right there. These are the better class, rich people. And that's how

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

they can make it and keep their children safe, they think. And then the child starts to doing things that the parent doesn't like. Then the child is unruly, the parents cannot control them. So they run down to the Legislature and say, pass a bill so the state can come in my house and rear my child for me. I don't...the child is not going to commit a crime, so you got to create some kind of way where you can say, the child has not created a crime, but the status is wrong, so lock them up for that. Status offenses were not for poor people and black people. Those were for white people who couldn't manage their children, and they wanted somebody to do it for them. They have guns around the house, so the kids get the guns and shoot the parents. This happens all over the country. And that problem is not going to be addressed. It's so much easier to talk about meth labs and all these other things.

SENATOR SCHIMEK: One minute.

SENATOR CHAMBERS: But you're not going to shut down a meth lab with this bill. Go hire some snitches, and that will not solve the problem. But you'll find more of these meth labs than with these cops running around here with magnifying glasses, playing like they're Sherlock Holmes. The only thing that would stand in the way of what Senator Combs mentioned and what they do in Oklahoma is that document that I've spoken so highly of but which you all have no regard for, and that's the state constitution. The constitution determines what bail is for and which offenses are not bailable. But you all shred the constitution to put hunting, trapping, and fishing; disregard it for this, too. What difference does it make to you? It doesn't mean anything to you. So just do that, too, and then tell the public, not only did we stop meth; we got rid of that constitution, too. Don't mean...

SENATOR SCHIMEK: Time.

SENATOR CHAMBERS: ...nothing, anyway. Thank you, Madam President.

SENATOR SCHIMEK: Thank you, Senator Chambers. Your light is next, so you are recognized to speak. Senator Chambers.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

SENATOR CHAMBERS: Thank you. Madam President, sometimes before I speak I have nonverbal communication with the "General." I'm going to stay on this bill, but fortunately for you all, not much longer on General File. The bill will move. The ducks are lined up. But I'll tell you one thing. I bet the soon to be ex-Governor doesn't care about LB 117 anymore. He knows it's nothing. He needs to think about that big looming force that's going to put him out of a job again. The only job he ever won, I think, by election, was Treasurer, I think, if I'm not mistaken. And I could be, because I don't keep track of these little people. He's over there sweating. He didn't win the governorship; it was given to him. And the other guy got out of here like a bat out of Hades because he didn't see where he could win any higher office that he might have wanted. So that was a graceful way to get out. First thing you all ought to do, and maybe I'll help you, is put that hybrid helmet bill on his desk and see what he does with that. I bet he won't sign it now, because he got somebody running for Governor who doesn't even have to say much. He said not a bad word about David Heineman will come out of his mouth. (Laugh) Doesn't have to. I'll tell you what. They shouldn't have a debate either, unless they make him sit down and let Heineman stand up. (Laughter) What is wrong with everybody? I'm talking about politicians, who have got to have thick skin. Now, my colleague over here saying, don't talk about short jokes, I've been subjected to that all my life, and look at me. Do you think I feel inferior to anybody? Will I take low because most of the people in this society are taller than I am? People make tall jokes. They make all kind. And I will talk about politicians in the way that I choose. And if they can't take it, get on out of the kitchen. Look at the way these cartoonists draw Mr. Bush. One of them even said--and he won the Pulitzer Prize--he makes him look like a chimpanzee. And when a little girl asked him, why do you make the President look like a chimp, this cartoonist, who just won the Pulitzer prize, said, I told her I didn't make him look like a chimp; God made him look like a chimp. Now, why don't you all get mad at that? Why do you all pick up the newspaper and read this, then you get disturbed when somebody frankly says it? Because you're not used to anybody speaking in manly, adult tones about other men and adults. And I'm not

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

going to be nice to these people who do things that are hateful to others. That's the man who vetoed the felon's right to vote bill. So you all can walk light around him, but I'm not. If he is so delicate, he ought not be Governor. You all are more worried about him than he is. He has never come up to me and said, Ernie, don't tell those short jokes, because they apply to you and me. I'm not taller than most people in this state. He might even be taller than I am. If somebody talks about short people, does that make me any difference? Napoleon was probably one of the shortest people in history. And yet, the "General" even talks about him to this day, with awe in his voice and respect. How many times have you heard, it's not the size of the dog in the fight, it's the size of the fight in the dog? Think about that. But you don't apply it. You live life according to formulas. I live life according...

SENATOR SCHIMEK: One minute.

SENATOR CHAMBERS: ...to life. And that's why I will not be beset by stress, depression, fear, cowardice, shaking and quaking, my palms sweating because people don't like what I say. Pshaw. I learned that in English literature, p-s-h-a-w. I'm just looking around, Senator Bourne, surveying my domain. (Laugh) Now, who else will say that on the floor and can mean it? Why, they'd be so afraid, as soon as it got out of their mouth, they'd have frightened themselves and run under the desk and started writing out apologies immediately. I'm just a different breed of cat. And when I am out of this Legislature, an era will truly have come to an end. But until then, you have me to contend with for at least three more years.

SENATOR SCHIMEK: Time.

SENATOR CHAMBERS: Thank you, Madam President. Was that my third time?

SENATOR SCHIMEK: That was your second time, Senator Chambers. Senator Stuthman, you're recognized to speak.

SENATOR STUTHMAN: Thank you, Madam President and members of the body. I am considerably much shorter than Senator Chambers, and

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

he claims to be really short. So you know, a lot of you people do look down upon me. (Laughter) Especially Senator Langemeier. But it doesn't bother me. I was beat down as a kid continually, and it shows in my older years. (Laughter) Both of my brothers are over six foot tall, and here I am, short, but very powerful. I will admit that. One of the things in this discussion, I know, I guess I keep my hand in my pocket. That's when I'm comfortable. But I would like to tell the body, there's probably one bill that I'm going to be discussing probably in a little while when it comes on the agenda that we're going to have quite a bit debate on. And it will come from the "floweth" of my mouth to try to defeat the bill. I'm giving warning on that one. You can probably figure out which one that's going to be. But if we want to have a real impact on this, maybe we should charge the pharmaceutical companies with the task of coming up with some medication that doesn't have the pseudoephedrine in. With technology nowadays, they can do about anything. Maybe that's the thing we need to do. I'm sure that back in the Rotunda when they hear those words of charging them to do something, they're probably really shaking and jumping. But that would have a real impact if we do that. So I'm sure that isn't what we're going to be doing right now. But coming from the words of probably the shortest senator here on the floor, about four inches shorter than Senator Chambers--I can tell you that because I've got a picture of him and I together, and he is quite a bit taller. But I think about two inches of that is his hair, because, you know, if I would have kind of like an afro on top here, I could probably be taller than he is. But another thing that he mentioned, you know, with my hand in my pocket. And this time, the balance of my time I'm going to keep in my pocket. Thank you.

SENATOR SCHIMEK: Thank you, Senator Stuthman. Senator Chambers, your light is on, and you are next.

SENATOR CHAMBERS: Thank you. Madam President, since this is the last time I'll be able to speak on this bill on General File, I want to recapitulate some things. More than 90 percent of the methamphetamine available and used in this state comes from outside the state. This bill does not profess to be able to shut down every lab in this state. So let's say that they

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

can shut down 50 percent of the labs. First of all, they won't know whether they've done that, because they don't know how many labs are here. If you're going to establish some kind of statistic, you have to have a base from which you're working. If you don't know where you're starting from, you don't know where you're going or where you are. So the statistics mean nothing. But one thing is crystal clear. There is far more meth coming into this state than is produced here. Law enforcement is not going to be able to find any more meth labs as a result of this bill being passed--not an additional one. Since they like to use snitches to ensnare people who haven't done anything except irritate them, let them use the snitch network to help them find some of these meth labs. But in some instances, they don't want to shut them down, because as long as the public is in a panic, more money can easily be shunted off into this supposed fight against meth. They can put together all of these so-called law enforcement task forces with the esoteric names, and all of these letters that it takes to create an acronym for them, to give the impression they're fighting meth. So they might find a lab because it blew up. And you might see on television or in a newspaper picture seven or eight or a dozen law enforcement people from the U.S. Attorney for the District of Nebraska, through the town marshal, standing there with their little chest sticking out because a meth lab blew up and they found out where it was. And the public gets the impression that meth is being fought here. Untrue. We should not be a part of the misleading that goes on to the public. I know politicians are expected to behave that way. And when I say politician, I mean the stereotypical person, who is venal, who is not going to tell the truth, who is going to mislead, misrepresent, and then try to get a piece of legislation through that does nothing, while heralding and trumpeting it as the solution to a problem. This bill is not going to touch the meth problem. Why can I say that and not be successfully challenged? Because the people on this floor who know anything about that problem know that what I'm saying is true. That's why Senator Aguilar--and I believe he's as sincere as a heart attack--has to stand on this floor and make appeals that go in a direction other than showing that the problem is going to be dealt with. He of all people knows that this bill is not going to do anything of consequence. But you're bound and determined to

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

advance it. You're bound and determined to enact it. Then you're through with it. You have contributed your bit to the fight against methamphetamine. Now let others take it from there. And those others, if they were honest with you, would tell you, well, what you did is not even a start, actually. You all remember having heard Winston Churchill say...

SENATOR SCHIMEK: One minute.

SENATOR CHAMBERS: ...at one point, this is not the end, this is not the beginning of the end, but this may be the end of the beginning. This is not even the end of the beginning. This is not the beginning of the beginning, if the word "beginning" means to make an inroad on a problem. But I'll just watch you all playing in the sandbox, doing what children do in the sandbox, then running home, brushing your little hands off, and you'll say that you fought dragons, you defeated the enemy, and now the world is safe for democracy. We'll just see. Madam President, how much time do I have back...have left?

SENATOR SCHIMEK: Twelve seconds.

SENATOR CHAMBERS: I'd give that to Senator Stuthman.
(Laughter)

SENATOR SCHIMEK: Thank you, Senator Chambers. Senator Stuthman.

SENATOR STUTHMAN: It will only take me a short...

SENATOR SCHIMEK: Time. (Laughter) We are on discussion of advancement of LB 117 to E & R Initial. Seeing no further lights, Senator Bourne, would you close on the bill?

SENATOR BOURNE: Thank you, Madam President. Before I do, or while I am closing, I'd like to ask for a call of the house, please.

SENATOR SCHIMEK: There has been a call of the house. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 117

ASSISTANT CLERK: 28 ayes, 0 nays to go under call, Madam President.

SENATOR SCHIMEK: The house is under call. Would all members please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Pahls, would you check in, please. Senator Schrock, would you please check in. Senator Redfield.

SENATOR BOURNE: Madam President, with your permission, I'll go ahead and close while the last couple of members file in.

SENATOR SCHIMEK: You may.

SENATOR BOURNE: Members, I appreciate your patience. I know it's been a long process. I think we've had a great discussion. And contrary to some of the members, I do believe that this makes sense. I do believe that it will go a long ways towards stopping the methamphetamine problem here in our state. I truly believe that if this bill continues to...along the road and ends up on Final Reading and is signed by the Governor, it will be the most comprehensive bill in the entire country designed to stop and fight methamphetamine use. With that, I would urge your adoption. Thank you again for the debate. Thank you, Madam President.

SENATOR SCHIMEK: Thank you, Senator. Senator Schrock, would you please report to the Chamber and record your presence. Senator Schrock. Members, you've heard the closing. The question is the advancement of LB 117 to E & R Initial. All those in favor vote aye; all opposed vote nay. There's been a request for a record vote. Have you all voted? Record, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1359-1360.) The vote is 43 ayes, 1 nay on the motion to advance, Madam President.

SENATOR SCHIMEK: The bill does advance. Mr. Clerk, next item. The call is raised. Items for the record, Mr. Clerk?

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 38, 90, 312, 332, 382, 424, 425, 542, 551
LR 98

ASSISTANT CLERK: Thank you, Madam President. A series of items. Amendments to be printed: Senator McDonald to LB 332, Senator Schimek to LB 424, Senator Wehrbein to LB 90, Senator Chambers to LB 425. Your Committee on Revenue reports LB 312 to General File with amendments. The bills that were read on Final Reading today have been presented to the Governor at 2:43 p.m. (re LB 382, LB 551, LB 38). New resolution: LR 98, by Senator Schrock and others. And pursuant to that is a letter from the Speaker referring LR 98 to the Reference Committee to refer it to the appropriate standing committee for public hearing. That's all I have at this time. (Legislative Journal pages 1360-1363.)

SENATOR SCHIMEK: Thank you, Mr. Clerk. Next bill.

ASSISTANT CLERK: Next item, Madam President, LB 542, which is a bill proposed by Senator Burling and other members. (Read title.) The bill was read for the first time on January 14, referred to the Revenue Committee. That committee reports the bill to General File. There are committee amendments attached. (AM0932, Legislative Journal page 1003.)

SENATOR SCHIMEK: Thank you. Senator Burling, you're recognized to open on LB 542.

SENATOR BURLING: Thank you, Madam President and members of the body. LB 542 creates the Nebraska Tax Code Review Commission, to study and recommend tax structure reform in the state of Nebraska. The members of the commission represent private and public sectors from across the state. I worked with Governor Heineman on this bill. He supports the concept of it, and he believes the opportunity to do this in Nebraska is now. And we'll talk a little bit more about that later. In the Governor's State-of-the-State message, he talked about growing the economy in Nebraska, and he made several points, as you remember. Some of those points were thinking outside the box, being bold in our ideas and actions, and bringing growth to our economy, and bringing our tax incentives up to date. And I submit to you that LB 542 is a bold effort to review and recommend ways to bring our tax code into the twenty-first

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 542

century. According to NCSL, 37 states have reviewed their tax code since 2000. Our last tax study occurred in 1991, and I believe it's time for Nebraska to evaluate our current system and move into the twenty-first century. The best tax policy is one that's built on a fundamentally sound foundation designed to enhance our economic goals and objectives. To support these goals and objectives, it is desirable for our tax policy to be fair, simple, and dependable. Tax incentives, credits, and other such programs are good and often necessary. But they do tend to become political footballs, drawing attention to the phrase: The government giveth, and the government taketh away. Tax incentives are accomplished via individual legislation. I believe that most people are interested in tax climate rather than incentives, and tax climate is best addressed through a commission process. One might initially assume that inviting stakeholders to review the current tax structure could lead to conversations such as Russell Long's coined quotation: Don't tax you, don't tax me, tax the fellow behind the tree. We all know of the endless number of bills that come before the Revenue Committee every year to make changes in our tax code. Every minor bill, however minor it might be, has a ripple effect on the entire tax structure. When the Revenue Committee receives a proposal to exempt something from sales tax, they have to decide, how do we make up the difference? When there's a reduction, there has to be something to make up the difference. The last few years in our budget proposals, we cracked the door open to sales tax on services a little bit. That may be the way we want to go. But the best way to go that direction, if that's what we want to do, is a recommendation of a commission, not individual bills because tax policy that evolves or is developed over a number of years by a political agenda usually is not the best policy. We currently have a tax structure that hasn't been reviewed by this type of a commission since the income sales tax was instigated in 1967. And I'm convinced that as this body prepares to welcome 37 new senators over the next four years, the work of this review commission would be very valuable in getting us all on the same page. A little bit of review. The McClelland Study was in 1963. Then in 1988, many years after that, we had the famous Syracuse Tax Study. I hold that up here. This is the Syracuse Tax Study. We paid \$350,000 for this, about \$500,000 in today's money. Not a whole lot came

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 542

from that. The thickness of it probably scared most people away. But that was in 1988. It was an academic study rather than a commission-type study--very valuable, I think, as far as information is concerned, but didn't have a large effect on our tax policy. Then in 1991, we had what we called the 3-R Committee. That was appointed by then-Governor Ben Nelson. And they could not agree on very many things, so not too much happened to that. Since the last tax study...or, since the Syracuse Study in 1988, we weren't dealing with the current level of information technology capabilities that we have today, and the significant tax issues that followed the Internet boom of the nineties. In 1991, we didn't have to deal with lost revenue caused by the inability to tax Internet retail. Our economy is now a global one, and we need to adjust our tax policy to that. Contributing factors to what makes a tax commission successful are, how many of the recommendations become policy? To what extent did the public have an opportunity to engage in the debate? And I think a commission-type structure has a higher chance of success when synthesizing both academic study and political stakeholdership. This bill brings together the executive and legislative branches of government, as well as members from the public and private sector, to discuss and study tax structure in Nebraska. And I believe that these things alone, which were not part of any previous tax study, will increase the chances of success greatly. If each person in this room were to write a tax policy, they would all be different. We won't all agree with the recommendations of the commission. But I'm willing to take that chance, because I believe that when reasonable and knowledgeable people meet around a table and engage in open and frank discussion, the resulting recommendations would most assuredly be an improvement. I am confident that this commission can rise above tax politics and recommend what is truly the best policy for our state. In the past six months, I have read and heard a great deal about increased interest from other states regarding tax policy. With term limits now in effect for Nebraska's legislators, timing is critical; 75 percent of our current senators will not face the voters again. Twenty of us will not return in January of '07, and the rest of the 75 percent will be out in January '09. It is my hope that this review commission will provide us with

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 542

recommendations regarding our tax code which will enhance economic development sufficient to meet the needs, jobs, goods, and services of our citizens. We currently have a collection of knowledge and experience which needs to contribute to each...to such an important project as to how funds for government services are collected. My plan will allow the bill...or, allow the commission 18 months to meet and make recommendations to the Legislature for consideration in January '07, when 40 percent of our body will be freshman senators. Now, my idea was not brought out because of a fiscal crisis, but a general dissatisfaction with the workings of our state tax system. The issues of property taxes, sales and income tax bases, rates, and percentages are best addressed free from the day-to-day pressures of government operations. Long-term reform can best be accomplished with well-designed tax study. It is possible that reforms enacted subsequent to this study will again succumb to political maneuvering. And that disconnect between short-term political expediency and long-term fiscal policy is unfortunate. Legislation resulting from this commission's recommendations would be a guide for future legislators as they consider tax policy. We cannot bind future Legislatures, but we can recommend a basic tax code that is more geared to the twenty-first century than we have now. A tax study at this time is still a valuable tool to bring us back to the basics and provide us with a road map...

SENATOR SCHIMEK: One minute.

SENATOR BURLING: ...to help us get to where we need to go. I will conclude my opening there. And the Revenue Committee, who has been very cooperative with me on this issue, has an amendment to my bill. In fact, it becomes the bill. And so I'll go ahead and let that amendment be introduced. And then we'll continue our discussion. Thank you, Madam President.

SENATOR SCHIMEK: Thank you, Senator Burling. Mr. Clerk, are there amendments?

CLERK: There are Revenue Committee amendments, Madam President.

SENATOR SCHIMEK: Senator Connealy, would you like to open on

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 542

the Revenue Committee amendments?

SENATOR CONNEALY: Thank you, Madam President and members. The committee amendments replace the bill with a proposal calling for a 15-member Tax Policy Review Commission, appointed by the Executive Board of the Legislature, as follows: eight members of the Legislature, at least six of them who are not term-limited out in January 2007; one representative of the education community, appointed by the Education Committee of the Legislature; one representative of production agriculture as appointed by the Agriculture Committee of the Legislature; one representative of industry...I'm sorry, all of these are...these are appointed by the committees from a list. One representative of the industry representing manufacturing, appointed from a list submitted by the Business and Labor Committee of the Legislature; one representative of a financial sector, appointed from a list of names submitted by Banking, Commerce and Insurance Committee of the Legislature; one representative of telecommunications sector, appointed by...from a list appointed by the Transportation and Telecommunications Committee of the Legislature; one representative of city government and one representative of county government, both appointed by...from a list submitted by the Government, Military, and Veterans Affairs Committee of the Legislature. The committee would examine tax policy in the state in relation to general recognized tax policy principles, and specific direction to look at household and business tax burdens and nominal tax rates, compared to the United States as a whole and surrounding states, tax incentives, economic and demographic changes in Nebraska, and how these changes affect the revenue of our state. The commission would be staffed by the Legislative Council, the Department of Revenue, and the Department of Property Tax Administration...Assessment and Taxation, I'm sorry. It could employ a meeting facilitator and commission other research or presentations from institutions of higher education in the state. It would be appropriated no more than \$100,000, and would terminate by December 31, 2006. The discussion in the committee was that if the Legislature is going to change tax policy, the Legislature should have a strong part of this. Outside interests are less likely to be followed than our own interests. And that the Revenue Committee believe that these

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 542

changes would make the Legislature have more of an ownership in any commission or any tax policy changes. Thank you, Madam President.

SENATOR SCHIMEK: Thank you, Senator Connealy. Mr. Clerk, are there other amendments?

CLERK: Senator Burling would move to amend the committee amendments, AM1099. (Legislative Journal page 1126.)

SENATOR SCHIMEK: Senator Burling, you are recognized to open on your amendment.

SENATOR BURLING: Thank you, Madam President and members of the body. Thank you, Senator Connealy, for introducing the committee amendment. The basic difference between the committee amendment and my green copy originally is the size of the commission. My proposal was 30 members; they've recommended 15. I was estimating about \$200,000 for the expenses of the committee, and now it's estimated maybe at \$100,000. And then how the committee was appointed was another major difference. I appreciate the committee's work and their recommendation. Understand that all legislation that we adopt here is usually done by compromise. And so I support the committee amendment. But I have...I noticed when the committee amendment come out, the Governor was not a part of it in their amendment. And so I visited with the Governor and the members of the Revenue Committee, and decided to introduce AM1099 to the committee amendment. And what it does, it leaves in place that the Executive Board of the Legislative Council would appoint the eight senators on the commission, and the Governor would appoint the seven other senators (sic), the private and public sector senators (sic). And it would...my amendment would add an additional report to the Governor. Right now there's a report...they're to report to the Executive Board and the Revenue Committee. My amendment would add that the Governor would also receive a report. And my committee adds one charge. There are several charges to the commission in the bill, if you will notice that. My amendment just adds the charge that they consider the findings in the Syracuse Study in their deliberations. So that's basically what my amendment does. And

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 542

I would be happy to answer any questions, or ask for its adoption. Thank you.

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Thank you, Senator Burling. You've heard the opening on AM1099, an amendment to the Revenue Committee amendments, AM0932. Open for discussion. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, in looking at the fiscal note, there is some discussion of how much it would cost if you were going to do a study worthy of the name. That could run from \$350,000 to \$500,000. Now, you get what you pay for. That's what people say. But I'd rather put it the other way: You don't get more than what you pay for. Sometimes you don't get what you pay for. So when you jerry-build a committee and there's nobody with any particular expertise, you've got people stumbling and fumbling around, and everybody feels, once again, that something is being done. But if you're talking about trying to create an intelligent, factual, sound basis on which to erect a tax policy, you should not simply have people from the Legislature with no particular expertise. That kind of expertise is not even developed by serving on one of these committees that bears a certain name and has a certain jurisdictional territory. People can mean well. People can try to learn on the fly while participating in one of these task forces. I would like to ask Senator Burling a question or two.

SENATOR CUDABACK: Senator Burling, would you yield to a question from Senator Chambers?

SENATOR BURLING: Yes.

SENATOR CHAMBERS: Senator Burling, do you feel that the structure that you've put together in this bill is the best one to get the kind of information you're trying to develop? Or could a study of the kind similar to that so-called Syracuse University Study do a better job, a more professional job?

SENATOR BURLING: The Syracuse Study was an academic study, and

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 542

it has some valuable information in it. The problem with the Syracuse Study is, without local stakeholders, without local state senators involved in that, there was a disconnect between the study and the implementation of the recommendations. And so I believe that this type of a commission will be more successful in the results. And they have access to unlimited expertise from people across the state that may not be on the commission. But they would have access to any information that's out there.

SENATOR CHAMBERS: The A bill would appropriate \$100,000. That doesn't seem to me that it would purchase unlimited expertise throughout the state. From whom would this expertise be obtained?

SENATOR BURLING: It would be obtained from the state agencies, university, people all around the state who will be, I believe, willing to offer that information for free. Now, I would hope that the commission would utilize a disinterested facilitator, that would cost some money. But I don't think the information...acquisition of the information will cost us that much.

SENATOR CHAMBERS: How much value do you think this study, and the report that results from it, will have?

SENATOR BURLING: I think it will have a great deal of value, considering the fact that the world is so much different now than it was just a few years ago, that we've got to take a different look at how we raise revenue.

SENATOR CHAMBERS: When this bill says, one representative of the...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...education community from a list of names submitted by the Education Committee, what expertise do the members of the Education Committee have in selecting the most competent representative from what is called the education committee...community?

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 542

SENATOR BURLING: Okay. That's the committee amendment. Now, my amendment would take out that part that says, from a list of names submitted by a standing committee, and would give the Governor sole discretion to choose anybody from the state he wants to, to represent education on this commission.

SENATOR CHAMBERS: So you have more confidence in Governor Osborne than you do in these legislative committees?

SENATOR BURLING: Well, right now we're operating under Governor Heineman. And if we can get this bill passed this year, why, the committee can start this summer.

SENATOR CHAMBERS: Before Governor Heineman is gone?

SENATOR BURLING: Yes.

SENATOR CHAMBERS: Do you change the number of people on this commission?

SENATOR BURLING: No, I leave it at 15, just like the committee recommended.

SENATOR CHAMBERS: And I think my time is up, so I will wait until I'm recognized to continue. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Wehrbein, followed by Senator Chambers.

SENATOR WEHRBEIN: Thank you, Mr. President, members of the Unicameral. I want to say I'm struggling with this. And I guess I'm going to go with my instincts. My instincts were off the first...I'm not sure where we're headed with this, I...Senator Burling. And I agree with probably the need for it. But I sense a disconnect between what the Revenue Committee had in mind, perhaps, and the Syracuse. At least...I'll restate that. We had the Syracuse commission, which spent several hundred thousand dollars, and we have this one, that's...it's come somewhere along the line of what Senator Chambers is saying, that is somewhat less. I do believe in using the senators in the process, because it does buy in because nothing

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 542

ever came of the Syracuse. On the other hand, what I'm concerned about is, if you study it and it doesn't come out with your preconceived ideas, nothing will happen, either. And I'm thinking, if we all think...most of us think property taxes are too high. We need to broaden...many think we ought to broaden the service economy...the sales tax on services, because we're going to a service economy. But what will come out of it is, there will be no expertise, no so-called experts, i.e., the Syracuse Study, to say that we should do it, and we still won't do it, anyway. I'm floundering for what I'm trying to say, because my instinct says this is a good idea to study. But I don't know where it's going to lead, with something that we don't already know. And I guess I'd like to ask Senator Connealy, as representing the Revenue Committee, did you discuss in depth the details of what you might expect in the commission, in other words, going the extent of a Syracuse-type study, versus what this approach is?

SENATOR CUDABACK: Senator Connealy, would you...?

SENATOR WEHRBEIN: Senator Connealy?

SENATOR CONNEALY: In discussions, we didn't want to spend a whole lot of money. We thought that the Revenue Committee had to be...had to buy into it, and the Legislature as a whole had to own this. And so that's why we moved from more of an appointed from the outside, to more appointed by us. And that we believe that we have to be part of it and own it all the way through, or it's not going to take those tough political choices that I think Senator Burling is wanting us to make in major changes to the tax policy. So our major thrust was to try to get Senator Burling a bill out there that the Legislature as a whole would run, and do itself, not to spend too much money.

SENATOR WEHRBEIN: Where do you think you'll get the hard data to make these decisions? I'm thinking. I mean, we all know today we have much more in our service economy than we did back then. We know manufacturing has declined. We know hard goods manufacturing has declined. We know we're increasing the property tax. We think...many cases, agriculture thinks we're paying more than our fair share. But where are we going to get

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 542

the hard data to support or disallow those kinds of facts? I mean, is there going to be a provision in there to have someone make a...let's call it a major study, but short of a Syracuse Study, so that you'll be able to look at that and say we have the facts to back up what we think?

SENATOR CONNEALY: I don't see us spending a whole lot of money and getting a whole lot of facts, other than talking to the university, as I mentioned in the committee amendment then, and using resources that are here within the Legislature to back ourselves up. We do have a lot of facts now, on all these issues. We have to just make the political choice to do certain things. I don't know whether the...you can get a commission to...or a fact-driven study that would make you do something that's...

SENATOR CUDABACK: One minute.

SENATOR CONNEALY: ...hard to do.

SENATOR WEHRBEIN: Well, the problem is, we saw...we've seen Syracuse. And I guess many...I don't remember what I really thought about it. I was new there. But we had the Syracuse Study, and then we thought there was something to become of it. And since there was, apparently, a lot of people disagreed with it, we really did nothing with it because I don't know whether we're ready to make those kind of changes in the economy that we're in. And I'm not sure, if we do...trying to think of a nice term here (laugh)...a partial study, if that will lead us to the kind of conclusions, whatever they may be. I'm not trying to presuppose the solutions. But I'm not sure we're going to have enough data to justify what kind of conclusions that should be, that's in contrast to what we think they should be. So I'm struggling a little bit. Thank you.

SENATOR CUDABACK: Thank you, Senator Wehrbein. On with discussion of AM1099. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, is this my first time on Senator Burling's amendment?

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 542

SENATOR CUDABACK: Twice, Senator Chambers.

SENATOR CHAMBERS: On Senator Burling's amendment?

SENATOR CUDABACK: On this one here, you talked...this is your second time.

SENATOR CHAMBERS: Okay, on this one? Then I'm going to have to be critical of the drafting. Now, the public has term-limited me. But I don't think the Executive Board has. Here's what...if you read lines 5 through 7, you'll see eight members of the Legislature, at least six of whom will not be term-limited out of the Legislature in January 2007 by the Executive Board of the Legislative Council. They ought to talk to Senator Hudkins or me or somebody. Here's what they probably should have said: eight members of the Legislature by the Executive Board of the Legislative Council, at least six of whom will not be term-limited out of the Legislature in January. They're going to be appointed by the Executive Board, not term-limited by the Executive Board. And I know people don't care how we draft legislation, but I do. So I have to be critical of that. But there's a substantive matter that I'm critical of, too. I will see whether or not the body is going to adopt Senator Burling's amendment to give all of this authority to the Governor, when the Legislature is not going to develop any kind of institutional memory if term limits will take hold. The Governor is being given power to appoint his or her choices to lay out a tax policy which will favor the executive branch. You cannot, in my opinion, have a totally objective study of something as broad and significant as this bill envisions, when the appointment of the people is in the hands of one individual, whoever that individual is. So I am not in favor of Senator Burling's amendment. But because I don't know whether his will be adopted, or the committee amendment will be adopted, I cannot offer an amendment that I would like to make. But I'll tell you what offends me. Labor has no representative. Everybody does. That's why I say there should be a labor committee and a business committee, not Business and Labor, because the only one that's given any consideration is business, not labor. When you talk about one representative, whether to be selected by the Business and Labor

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 542

Committee or the Governor, it says, one representative of industry and manufacturing. Why does nobody care about labor except me? Why won't people read these amendments? Or is it felt that this task force is so inconsequential that the same old exclusion of labor can be done as a matter of course? Not while I'm here, brothers and sisters. Not while I'm here. But I've got to see which of these amendments would be adopted, before I attempt to offer any changes myself. But I'm going to increase that number to 16, and insist that a representative of labor be included here. Nobody else on this committee works. Nobody. By that I meant, does honest toil; maybe production agriculture, but they're not a part of labor. And then all these other miscellaneous people,...they're the problem. As I look at this list, they are the problem. Senator Burling would like to get Jesse James, Frank James, the Dalton brothers, and McKenzie's Raiders to establish a program of effective law enforcement. Won't work, brothers and sisters. Senator Burling needs to know that...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...Germany is not the place where men of germs come from. Germany is not a country established by germs. So you're not going to have germs to lay out a program to fight germs. Germs want to produce other germs. Every species wants to maintain itself. When I look at these representatives, I am not confident that they're going to do this job. There needs to be an objective--to the extent that objectivity can be obtained or achieved--group with the expertise to do this. Not just a group of people running around with a tin cup, saying to the university, tell me this, and then somebody else in the same area, tell me that, and you put the two together and they don't mesh, and nobody on that group has enough knowledge to reconcile these two conflicting opinions. You need people who know and understand. Committees that are thrown together in this ad hoc, hodgepodge manner...

SENATOR CUDABACK: Time, Senator Chambers.

SENATOR CHAMBERS: ...are not going to do that much which is of value. Thank you, Mr. President.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 542

SENATOR CUDABACK: You may continue, Senator Chambers.

SENATOR CHAMBERS: I'd like to ask Senator Burling...well, let me ask Senator Connealy a question first. Because...

SENATOR CUDABACK: Senator Connealy, would you respond?

SENATOR CONNEALY: Yes, I would.

SENATOR CHAMBERS: Senator Connealy, why did not the...this Revenue Committee put a representative of labor on this thing?

SENATOR CONNEALY: I think the driving force on it was trying to limit the number and getting it down to a manageable level. In discussions on the committee, it was saying that even at this number, it was a large committee and hard to do the work that needs to be done on a committee level basis. And so I think that the main concern was to try to limit the number of representatives, to be a legislative committee, not...at least driven committee, not by the outside. And I think that we limited people, not...from the list that Senator Burling had, we pared it down, and this is what we came up with.

SENATOR CHAMBERS: Okay. But if you don't mind, Senator Connealy, business...I meant, industry and manufacturing create tax problems, because they are sucking out all of these incentives. Why should they be there to put a tax policy in place that's going to benefit them, but the working people who pay the taxes have no representation? Why is that?

SENATOR CONNEALY: Well, I don't necessarily disagree. I think we...the main driver was trying to limit it so you could bring some expertise in different areas. I don't fight what you're talking about on making sure that people that work are represented.

SENATOR CHAMBERS: Now, the financial sector are the ones who pushed Congress and the President into signing that Draconian bill that relates to bankruptcy. Why are they on here? Why do they have a representative?

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 542

SENATOR CONNEALY: I think that the reason was that there were...there was...financial institutions have certain expertise, and their interests would be of interest to the committee.

SENATOR CHAMBERS: Now, the telecommunications sector are the ones who have that bad bill pending before us to cut out other public entities from horning in to what they feel is their territory. And they're not necessarily serving the public well. Why should they have a representative, when I don't see any representative of public power, for example? I'm just curious.

SENATOR CONNEALY: Once again, just to limit it. I think that they are a taxed entity, and so their input on the taxes that come from that industry.

SENATOR CHAMBERS: Thank you, Senator Connealy. Mr. President, I don't think there was any scientific basis according to which these people were put on this commission. I think it's going to be a whole lot of time spent that will produce nothing. It will be like the mountain that roared and grumbled, and everybody was terrified, then it produced a mouse. Out walked a little mouse. All of this sound and fury is not going to generate anything in the way of a rational, reliable tax policy on which the Legislature can build. Either you should do it right, or not do it at all. I don't think this idea of being a beggar going around to these various agencies to try to get information is going to work. I don't even see in this bill a listing of the agencies that are going to be begged. Maybe they're in here, and like that Prego sauce, they're in here but I just missed them. But from what Senator Burling told us, there's all kind of free expertise just out there in the state, waiting to be tapped. I am going to vote against his amendment, because it concentrates all of the appointing power in the hands...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...of the Governor, I believe, unless I may have read it wrong because I just got it off the machine. Okay. Eight members of the Legislature who...after...who will be

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 542

term-limited out by the Executive Board. But I don't think the Governor should have all of this appointing power. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Any further discussion? Seeing none, the Chair recognizes Senator Burling to close on AM1099.

SENATOR BURLING: Thank you, Mr. President, members of the body. I understand the skepticism on this commission. And we'll talk more about that later. But I introduced the amendment because I think some involvement from the executive branch will give it more credibility and more...better chance of success if we have the executive branch involved, so that they have an ownership in it. My amendment would leave the fact that the Executive Board appoints eight of the members, and the Governor appoints the other seven members, and then a couple of other things that I explained earlier, about giving them a charge, and a report goes to the Governor. That's what my amendment does. If you want...if you don't want the Governor to make the appointments of seven members, and leave it all up to the Executive Board, why, then vote against this amendment. If you want the executive branch involved in this study...tax study commission, then support my amendment. And I think that that's the best way to go. So I urge your support for AM1099. Thank you very much.

SENATOR CUDABACK: Thank you, Senator Burling. You've heard the closing on AM1099 to the Revenue Committee amendments, AM0932. All in favor vote aye; opposed, nay. Voting on the adoption of the Burling amendment, AM1099, which is an amendment to the Revenue Committee amendments to LB 542. Senator Burling, what purpose do you rise?

SENATOR BURLING: Mr. President, I think we need a call of the house, please.

SENATOR CUDABACK: There's been a request for a call of the house. All in favor of the house going under call vote aye; those opposed, nay. Record please, Mr. Clerk.

ASSISTANT CLERK: 15 ayes, 0 nays to go under call,

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 542

Mr. President.

SENATOR CUDABACK: The house is under call. All unexcused personnel please report to the Chamber. Unauthorized personnel please leave the floor. Members, please check in. Senator Janssen, Senator Cunningham. Thank you both. Senator Combs. Thank you. Senator Johnson, Senator Hudkins, Senator Kruse, Senator Schrock, Senator Baker, Senator Smith, Senator Foley, and Senator Preister, please check in. Senator Hudkins, Senator Schrock, please check in. The house is under call. Senator Preister. Senator Burling, did you wish to...did you say you'd accept call-ins, or did you?

SENATOR BURLING: No, let's take a board vote.

SENATOR CUDABACK: We already have a board vote. I'm sorry.

SENATOR BURLING: Okay.

SENATOR CUDABACK: You have to do a roll call vote.

SENATOR BURLING: Call-ins, yes.

SENATOR CUDABACK: Call-ins first?

SENATOR BURLING: Yes.

ASSISTANT CLERK: Senator Erdman voting yes, Senator Friend voting yes, Senator Kruse voting yes, Senator Cunningham voting yes, Senator Janssen had voted yes, Senator Johnson voting yes, Senator Don Pederson voting yes, Senator Engel voting yes, Senator Foley voting yes, Senator Aguilar voting yes.

SENATOR CHAMBERS: Mine was no, but now it's yes, when it turned on again.

ASSISTANT CLERK: Senator Chambers voting no, Senator Baker voting yes, Senator Smith voting yes, Senator Redfield voting yes, Senator Howard voting yes, Senator Schrock...

SENATOR CUDABACK: Record please, Mr. Clerk.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 3, 2005

LB 161, 401, 542, 551, 682

ASSISTANT CLERK: ...voting yes. 28 ayes, 2 nays on the adoption of Senator Burling's amendment.

SENATOR CUDABACK: The amendment has been adopted. I do raise the call. Items for the record, Mr. Clerk?

ASSISTANT CLERK: Mr. President, I do. A series of name adds: Senator Price to LB 161, LB 401, LB 551, and LB 682. (Legislative Journal page 1363.)

Priority motion: Senator Janssen would move to adjourn until Wednesday, May 4, at 9:00 a.m.

SENATOR CUDABACK: You've heard the motion by Senator Janssen to adjourn till May 4, 2005, 9:00 a.m. All in favor say aye; opposed, nay. The ayes have it. We are adjourned.

Proofed by: GSK/DS